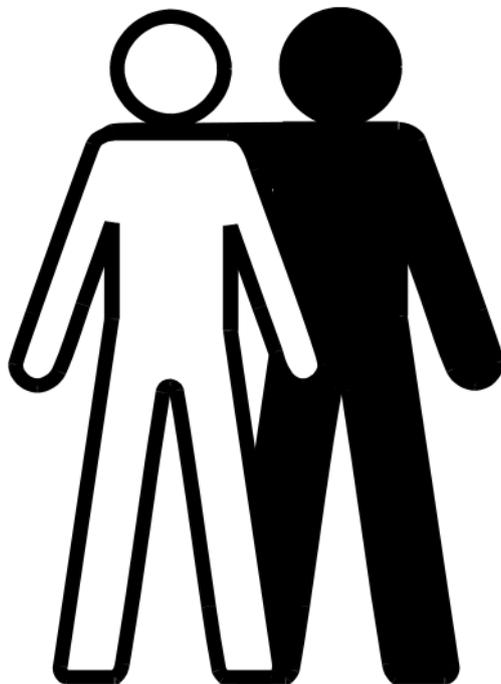


The Adult Support and Protection (Scotland) Act 2007



Working together to protect adults Interagency Guidelines

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Foreword by West Dunbartonshire Adult Protection Committee

“Protecting and empowering vulnerable adults who may be at risk of harm must remain a high priority for us all and be accorded the status and priority it deserves”

The West Dunbartonshire Adult Protection Committee and partners have a vision of “Working together to protect adults” and remain committed to enabling timely and effective support and protection for adults at risk of harm.

This means we believe that all citizens, organisations and services have a responsibility to support and protect those who may find themselves at risk. The Committee endorses the view that protecting vulnerable adults who may be at risk of harm is everybody’s business. The committee is keen to explore ways of widening the partnership of organisation and agencies involved in protecting vulnerable adults at risk of harm.

This Guidance has been informed by The [Adult Support and Protection \(Scotland\) Act 2007](#) (the Act) which addressed Adult Support and Protection through introducing seven key elements which are, establishing legal principles, defining an adult at risk and harm, placing statutory duties on Councils to inquire and investigate, ensuring a duty of co-operation for key statutory partners, introducing offences, protection orders, and a duty to establish Adult Protection Committees.

The Scottish Government [Adult Support and Protection \(Scotland\) Act 2007 Code of Practice](#) provides further in depth explanation of the legal definitions and principles all local authorities, agencies and practitioners must be guided by.

For further detail of measures, definitions and links to other safeguarding laws refer to the [Adults with Incapacity \(Scotland\) Act 2000](#) (AWIA) and the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (MHC&T).

The [West of Scotland Inter Agency Adult Support & Protection Practice Guidance](#) is the other overarching reference document for guidance approved for use within West Dunbartonshire and must be read in conjunction with this Guidance.

The Guidance has been developed to ensure that any concerns about an adult at risk are responded to quickly and proportionately, in a way that is transparent to all.

The Guidance is the key to the systems, referral process and actions that must be taken when adults who may be at risk of harm are identified.

Our aspiration is that all people will be able to keep themselves safe from harm without the need for professionals becoming involved in their lives; however, until this is a reality, we will continue to work together to provide the right support at the right time.

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Introduction

This set of guidance and procedures have been produced by the West Dunbartonshire Adult Protection Committee. It is intended to support all agencies to work together effectively to ensure that adults at risk of harm receive support and protection.

The aim is to prevent harm wherever possible, but also to have agreed processes in place for dealing effectively and consistently with incidents of harm. Legislation, including the [Adult Support & Protection \(Scotland\) Act 2007](#), the [Adults with Incapacity \(Scotland\) Act 2000](#) and the [Mental Health \(Care & Treatment\) \(Scotland\) Act 2003](#), places clear responsibilities on statutory agencies to intervene where necessary to protect adults at risk. A confident but sensitive response to often complex situations will only be achieved by working in partnership with voluntary and independent sector organisations, as well as with family, carers and adults at risk themselves.

There is a clear expectation that each of the partner organisations within West Dunbartonshire produces and regularly reviews their own internal procedures to guide their staff in responding to incidents, and that these should be consistent with these multi-agency procedures, with particular reference to Section 3 of these guidelines.

Section 1 provides definitions to assist in identifying ‘harm’ and what is meant by an ‘adult at risk’.

Section 2 lays out clearly the roles and responsibilities of each partner agency for working co-operatively in preventing or responding to harm to adults at risk.

Section 3 describes the procedures that will be followed by staff, across partner agencies, from referral, throughout the case management process. These procedures are summarised in the flowchart at Appendix 1.

Section 4 provides supplementary guidance and outlines specific additional considerations, including large-scale investigations, cross-boundary issues, escalation protocols, specific forms of harm and quality assurance.

Objectives

This set of guidance and procedures support West Dunbartonshire Adult Protection Committee's general objectives to provide:

- common definitions of 'harm' and 'risk'
- a joint procedure for inquiring into, and responding to, situations where harm to adults at risk is suspected or encountered
- a common approach to monitoring and recording
- accessible information for staff and the general public.

Section 1 Context for Partnership Working

1.1 Guiding Principles

The following principles and values shall inform and guide the application of Adult Support and Protection (ASP) procedures by partner agencies:

- every adult has a right to be protected from all forms of harm, neglect and exploitation
- the primary consideration at all stages will be the safety and wellbeing of the adult
- every effort should be made to support the adult to express their wishes and make their own decisions
- all decisions and action taken under these procedures should be explicitly informed by the principles laid out in the ASP legislation, including that any intervention must benefit the adult and be the least restrictive option available (see Section 1.2).

The procedures are also based around the expectation that all adults are entitled to:

- live safely in their own home and without fear, and free from being harmed by others
- access their community without fear of violence or harassment
- where they have capacity make informed choices about intimate relationships without experiencing exploitation or sexual abuse
- have their rights and property treated with respect
- be supported to make choices about their lives
- be given appropriate information about safeguarding themselves, their property, rights and other interests.

1.2 Principles for Performing Functions Under the Adult Support and Protection (Scotland) Act 2007

[The Adult Support and Protection \(Scotland\) Act 2007](#), referred to throughout this guidance as ‘The Act’, requires the following principles to be applied when deciding which measure will be most suitable for meeting the needs of the individual. Any person or body taking a decision or action under the Act must be able to demonstrate that the principles in sections 1 and 2 have been applied.

The principles in Section 1 require that any intervention in an adult’s affairs under the Act should:

- provide benefit to the adult which could not reasonably be provided without intervening in the adult’s affairs
- is of the range of options likely to fulfil the object of the intervention, the least restrictive to the adult’s freedom.

The principles in Section 2 require that Social Work staff performing a function under Part 1 of the Act must also have regard to the following:

- **the wishes of the adult** - the present and past wishes and feelings of the adult, where they are relevant to the exercise of the function, and in so far as they can be ascertained. Efforts must be made to assist and facilitate communication using whatever method is appropriate to the needs of the individual. For example, where the adult has an Advance Statement made under the [Mental Health \(Care & Treatment\) \(Scotland\) Act 2003](#) this should be given due consideration
- **the views of others** - the views of the adult’s nearest relative, primary carer, and any guardian or attorney, and any other person who has an interest in the adult’s wellbeing or property, must be taken into account, if such views are relevant
- **the importance of the adult participating as fully as possible** in any decisions being made. The adult is provided with information at all stages and/or with aids to communication to assist with that participation

- **that the adult is not treated less favourably** than the way in which a person who is not an 'adult at risk' would be treated in a comparable situation
- **the adult's abilities, background and characteristics** – including: the adult's age, sex, sexual orientation, religious persuasion, racial origin, ethnic group and cultural and linguistic heritage and other protected characteristics– are fully taken into account.



Note – Who is not bound by the principles?

The adult, primary carers, nearest relative, legal guardian(s) or attorney(s) are not bound by the principles of The Act, unlike the under the Mental Health (Care and Treatment) (Scotland) Act 2003, whose legal principles do apply to the aforementioned group. Similarly, it should be noted that the statutory roles of Guardian or Attorney have separate legal duties and principles under the Adults with Incapacity (Scotland) Act 2000, which require to be adhered to.

1.3 Definitions

Who is an adult at risk of harm?

For the purposes of these procedures, the definition of an 'adult at risk of harm' is that contained within the Adult Support & Protection (Scotland) Act 2007 and its accompanying [Code of Practice \(2022\)](#).

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

Adult Support and Protection Code of Practice 2022 Section 3(1) define an 'adult at risk' as someone who meets **all** of the following three-point criteria. Often referred to as the 'Three Point Test':

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

It should be noted and strongly emphasised that the three-point criteria above makes no reference to capacity. For the purposes of the Act, capacity should be considered on a contextual basis around a specific decision and not restricted to an overall clinical judgement. It is recognised that, due to many factors in an individual's life, capacity to make an authentic decision is a fluctuating concept. Thus, even if deemed to possess general capacity, attention must be paid to whether a person has clear decisional and executorial ability (i.e. to both make and action decisions) to safeguard themselves in the specific context arising.

Unable to safeguard or unwilling to safeguard?

The first point of the three-point criteria set out in section 3(1) of the Act relates to whether the adult is unable to safeguard their own well-being, property, rights or other interests.

Most people will be able to safeguard themselves through the ability to take clear and well thought through decisions about matters to do with their health and safety, and as such could not be regarded as adults at risk of harm within the terms of the Act. However, this will not be the case for all people, and when a person is deemed unable to safeguard themselves, they will meet the first point of the three-point criteria.

- ‘Unable’ is not further defined in the Act, but is defined in the Collins English Dictionary as “lacking the necessary power, ability, or authority (to do something); not able”
- ‘Unwilling’ is defined in the Collins English Dictionary as “unfavourably inclined; reluctant” and may thus describe someone who is aware of the potential consequences but still makes a deliberate choice.

A distinction may therefore be drawn between an adult who lacks these skills and is therefore unable to safeguard themselves, and one who is deemed to have the power, ability or authority to safeguard themselves, but who is apparently unwilling to do so.

Note - The key element of the three-point test relates to whether the adult is unable to safeguard their wellbeing, property, rights or other interests.

It will be important to distinguish between whether the adult lacks the skills necessary therefore is unable and an adult who has the skill, means or opportunity to keep themselves safe, but chooses not to. The latter would mean that they would not be considered as meeting the criteria qualifying them as an adult at risk in terms of the Act.



This distinction requires careful consideration. All adults who have capacity have the right to make their own choices about their lives and these choices should be respected if they are made freely. However, for many people the effects of trauma and/or adverse childhood experiences may impact upon both their ability to make and action decisions, and the type of choices they appear to make. In this context it is reasonable to envisage situations in which these experiences, and the cumulative impact of them through life, may very well have rendered some people effectively unable, through reliable decision making or action, to safeguard themselves. Similar considerations apply to coercive control or undue pressure. In such situations the control exercised over a vulnerable person may also effectively render them unable to take or action decisions that would protect them from harm. It is therefore important, as part of the assessment, to understand the person’s decision-making processes. It is also important to bear in mind that an inability to safeguard oneself is not the same as an adult lacking mental capacity. For example, a person may have relevant mental capacity but also have physical limitations that restrict their ability to implement actions to safeguard themselves. Staff must take a person’s overall circumstances into account, and take great care, before determining whether or not an adult is genuinely able to take and implement decisions about safeguarding themselves.

Risk of Harm and Serious Harm

The Code of Practice (2022) clarifies that the presence of a particular condition does not automatically mean an adult is an ‘adult at risk of harm’. Someone could have an illness or disability but remains able to safeguard their wellbeing etc. It is important to stress that all three elements of this definition must be met. It is the whole of an adult’s particular circumstances which can combine to make them more vulnerable to harm than other people.

Risk of harm is defined in Section 3(2) of the Act which 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
- the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

Harm is defined in Section 53 of the Act which states that 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 affects property, rights or interests (for example theft, fraud, embezzlement or extortion)
- conduct which causes self-harm.

The definition of harm in The Act sets out the main broad categories of harm that are included. The list in the definition is not exhaustive, and no category of harm is excluded simply because it is not explicitly listed. In general terms, behaviours that constitute harm to others can be physical (including neglect), emotional, financial, sexual, or a combination of these.

In making an application for a protection order under the Act it will be necessary to demonstrate that the adult is at risk of **serious harm**. Neither The Act nor the Code of Practice defines 'serious harm'.

It is recognised that such definitions of harm may overlap with other situations where an adult is placed at risk or suffers harm, including:

Random harm

Random harm, caused for example by physical or sexual violence, fraud or theft, against an adult at risk by a stranger (i.e. a person with whom the adult has had no previous or likely future contact) may require the instigation of ASP procedures, but will usually be dealt with by other services (notably the Police).

Self-harm

Self-harm involving suicidal and para-suicidal behaviour where the adult is experiencing a serious mental health crisis or illness, may result in the Police contacting the Out of Hours CPN service or conveying the adult to hospital for psychiatric assessment and subsequently raising an adult concern report to Adult Social Work. It is rare for such reports to trigger further ASP action as assessment and intervention may be more appropriate under the Mental Health (Care and Treatment (Scotland) Act (2003).

Domestic abuse

Domestic abuse is defined by the Crown Office & Procurator Fiscal Services as: Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct, and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse can be committed in the home or elsewhere including online

[Joint protocol between Police Scotland and the Crown Office and Procurator Fiscal Service \(updated 2023\)](#)

Harmful conduct towards an adult by a partner or ex-partner, regardless of what form it takes, may initially be treated as domestic abuse by the Police and other agencies. It is important to establish whether either or both the victim and alleged perpetrator is also an 'adult at risk of harm'. Where this is the case, an ASP referral should be made by the agencies involved. Although the immediate action taken to protect the adult and stop the abusive behaviour may well be similar to that which agencies would take where the subject and/ or perpetrator was not assessed to be an 'adult at risk', Adult Social Work will consider the need for further statutory or other intervention (working to an agreed protection plan) as part of the ASP inquiry process.

1.4 Patterns of Harm

Harm to an adult at risk by others can take many forms and in practice categories/types frequently overlap. The following have been identified as the main forms of harm; however, it is not exhaustive and should be used as a tool in conjunction with professional judgment when considering an individual's specific circumstances.

Physical Harm – including hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions, deliberate fire-starting.

Sexual Harm – including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, could not consent or was pressurised into consenting.

Sexual harm includes:

- contact' harm – touch e.g. of breast, genitals, arms, mouth etc.; masturbation of either or both persons; penetration or attempted penetration of vagina, anus, mouth by penis, fingers or by other objects
- 'non-contact' harm – looking, photography, indecent exposure, "revenge porn", harassment, serious teasing or innuendo.

Psychological Harm – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal and online abuse, isolation or withdrawal from services or supportive networks.

Financial or material harm – including in-person or online theft, fraud, exploitation, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions or benefits.

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

Multiple forms of harm – may occur in an ongoing relationship or service setting, or to more than one person at a time. This makes it important to look beyond single incidents or breaches in standards, to underlying dynamics and patterns of harm.

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. In some cases, it may result from extreme levels of stress experienced by an informal carer, including situations in which an adult displays aggressive or violent behaviour towards their informal carer. In most such cases a sensitive approach is required which balances the core task of supporting and protecting the adult to prevent the harm from recurring, with recognition of the stress the carer is experiencing and offering appropriate support.

Self-harm – the adult at risk is engaging in behaviour which is causing (or likely to cause) self-harm. This is a broad term but will include:

- self-poisoning, self-injury by scratching, cutting or burning skin, hitting against objects, fire-setting, taking a drug overdose, swallowing objects or putting objects inside themselves
- less obvious forms, including misusing alcohol or drugs, going missing, hoarding or self-neglect (not looking after self or property), reckless behaviour, staying in an abusive relationship, eating problems (such as anorexia or bulimia).

The category of self-harm could also include instances where the conduct of others is considered to be a cause of an adult at risk self-harming.

1.5 Signs of Potential Harm

Suspicions of harm or neglect by others can come to light in a number of ways. The clearest indicator is a statement or comment by the adult themselves, by their regular carer or by others, disclosing or suggesting harmful or neglectful behaviour. Such statements invariably warrant further action, whether they relate to a specific incident, a pattern of events or a more general situation.

There are many other factors which may indicate harm or neglect, including:

- unusual, unexplained or suspicious injury
- dubious or inconsistent explanations or injuries or bruises

- history of unexplained falls or injuries
- prolonged interval between illness/injury and presentation for medical care
- adult at risk found alone at home, or in a care setting, in a situation of serious but avoidable risk
- adult at risk lives with another member of the household who is known to the police, social work or health agencies as likely to present a risk to the adult
- signs of misuse of medication, non-administration or over/under medicating
- unexplained physical deterioration in the adult at risk e.g. loss of weight, pressure sores
- sudden increases in confusion e.g. due to dehydration, delirium
- demonstration of fear by the adult at risk to another person within home or if returning home
- difficulty in interviewing the adult at risk due to another individual insisting on being present
- anxious or disturbed behaviour on the part of the adult at risk
- hostile or rejecting behaviour by the carer towards the adult at risk
- indicators of financial harm or exploitation, e.g. unexplained debts, reduction in assets, unusual interest in adult at risk by family members, pressure from others to admit the adult into care (or not to admit the adult into care), misappropriation of benefits, fraud or intimidation in connection with wills or assets.

1.6 Who May Cause Harm?

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

- informal carers or other household members
- relatives
- neighbours, friends and associates
- professional staff
- paid care workers or volunteers
- personal assistants employed by the adult through a Self-directed Support Option 1 arrangement (direct payment)
- other service users
- individuals or groups who deliberately target and exploit adults at risk.

There is a particular concern when harm is caused by someone in a position of power or authority who uses his or her position to the detriment of the health, safety and well-being of the adult at risk.

1.7 Where Does Harm Take Place?

Harm can take place in any context or setting, including:

- in the adult's own home
- within a residential or day care setting
- hospital
- public places
- support services in people's homes and the community
- online.

Assessment of the environment or context is vital because exploitation, deception, misuse of authority or coercion may render the adult incapable of making his or her own decisions or disclosing harm by others even though they are deemed to have 'capacity'.

Harmful behaviour within institutional settings may feature one or more of the following:

- poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and insufficient knowledge base within the service

- unacceptable 'treatments' or programmes which include sanctions or punishment such as withholding food or drink, seclusion, unauthorised use of control and restraint and over-medication
- discrimination, perhaps due to failure of agencies to ensure that staff receive appropriate guidance on anti-discriminatory practice
- failure to access key services such as health care, dentistry, prostheses.

Section 2 Roles and Responsibilities of Partner Agencies

2.1 Agencies Involved

Each partner agency will have a role in one or more of the following areas involving the harm of adults at risk:

- providing information and support
- prevention
- identifying and reporting
- investigating
- monitoring and reviewing.

The following agencies and partnerships will have a role within these procedures:

- West Dunbartonshire Health & Social Care Partnership (HSCP), including Social Work, Primary Care and Community Health, Care-at-Home, Day and Residential Services
- West Dunbartonshire Council including Legal, Housing, Trading Standards,
- Environmental Health, Community Safety and Education services, and West Dunbartonshire Leisure Trust
- NHS Greater Glasgow & Clyde
- Scottish Ambulance Service
- NHS24
- Police Scotland
- The Care Inspectorate
- Office of the Public Guardian (OPG)
- Mental Welfare Commission (MWC)
- Healthcare Improvement Scotland (HIS)
- Scottish Fire and Rescue Service (SFRS)
- Independent care providers
- Independent Advocacy
- Carer organisations
- Third Sector organisations
- West Dunbartonshire Child Protection Committee
- West Dunbartonshire Community Safety Partnership
- West Dunbartonshire Alcohol & Drugs Partnership
- West Dunbartonshire Violence against Women & Girls Partnership.

An effective response to protecting adults at risk of harm requires not only clarity around inter-agency and inter-professional practice but for each individual agency to have its own internal adult protection procedures and for these to be disseminated to its staff through information and training. Agency internal procedures should cover:

- thresholds for making adult support and protection referrals
- action to be taken to report actual or suspected harm to line managers within the organisation
- referring on to the responsible external agency or agencies
- action if a member of staff is suspected of causing harm
- action if another service user is suspected of causing harm
- immediate action to protect the person at risk of harm and any other service users judged to be at risk

- signposting agency managers and staff to these multi-agency procedures for more detailed guidance on, for example, their possible involvement in inquiries and intervention to protect an adult at risk of harm.

2.2 Roles and Responsibilities

2.2.1 Social Work

Social Work and the integration of Health, Social Work and Social Care services

The Act places a number of mandatory duties and optional powers on Councils to intervene in order to allow them to support and protect an adult from harm. As such they have the lead responsibility in co-ordinating any responses to adults who may be at risk of harm, including ensuring they are aware of their rights in relation to intervention to protect them and the provision of appropriate services including independent advocacy. The duties focus on establishing whether or not an adult is being harmed and what can be done to prevent further harm. The powers are used to protect the adult from further harm such as powers to visit the adult, interview them, arrange for a medical examination, access health, financial or other records or apply for a Protection Order.

The Public Bodies (Joint Working) (Scotland) Act 2014 led to the establishment of West Dunbartonshire Health and Social Care Partnership (HSCP). Under the Scheme of Delegation, West Dunbartonshire Council's duties and powers under the ASP Act were delegated to the HSCP. In day-to-day terms, the Council's statutory duties and powers continue to be carried out by social workers and their managers. For simplicity's sake, in this document the term 'Social Work' will continue to be applied to describe the services and staff responsible for carrying out these duties and powers.

Social Work and the Adult Support & Protection (Scotland) Act 2007

The provisions of the ASP Act mean that Social Work has the overall lead responsibility for inquiries into the harm of adults at risk and for coordinating the process of decision-taking, protective actions and monitoring that may follow the inquiry.

The Act obliges local authorities to:

- make inquiries to establish whether action is required where it is known or believed that an adult is at risk of harm and that intervention may be necessary to protect the adult (section 4).

The Act also provides local authorities with investigatory powers to enable them to undertake these inquiries. The powers are:

- visit any place necessary to assist inquiries (section 7)
- interview in private any adult found in the place being visited who is believed to be at risk (section 8)
- arrange for the adult at risk to be medically examined (section 9)
- request and examine health, financial and other records relating to an adult at risk (section 10).

Additionally, local authorities have the power to apply to a Sheriff for a protection order with the purpose of assessing the adult at risk, removing the adult from the place where they are at risk of harm, or to banning someone from contact with the adult where it is believed that they may cause harm to the adult.

Social Work also has a key role in the prevention of harm (or its recurrence) through the provision of support and services, especially where unmet need is identified as having been a factor in the harmful behaviour e.g. stress on carer, challenging behaviour by the service user etc. The process of taking

decisions relating to the immediate and ongoing protection of individuals, however, will be a multi-disciplinary one involving key staff from relevant agencies at practitioner and manager level.

In cases where it becomes apparent that a criminal offence may have been committed, Social Work will immediately inform the Police, who will consider whether to undertake a criminal investigation in parallel with the ASP process.

Commissioned and Registered Services

Its statutory safeguarding role means that Social Work will also take lead responsibility for investigating and taking measures to protect individuals who have been harmed, or are thought to be at risk, within commissioned services operated by West Dunbartonshire HSCP including Adult Day Services, Care at Home and Residential services, as well as voluntary or independent providers. This will be in addition to any internal action taken by the provider organisation to manage the harm caused by a service user, staff member or other person.

Where there is suspected or actual risk of harm, commissioned and registered services are required to notify both Social Work and the Care Inspectorate. The Care Inspectorate also has a role in investigating complaints made to them regarding standard of practice and quality of care within registered services, which may affect one or more individuals. Social Work and the Care Inspectorate will liaise in order to co-ordinate the response in terms of the Inspectorate's wider responsibility to monitor and enforce national care standards.

The responsible authority in cross-boundary or cross-border investigations will be the host authority, who will lead any inquiries under the Act. Where the adult was placed within a residential or day care establishment within West Dunbartonshire by another local authority, Social Work will notify the responsible authority to agree respective roles in the inquiry and any action which may be required.

Children's and Justice Social Work Services and Community Care Services

Those employed in Children's and Justice Social Work Services will identify adults at risk of harm in the course of their work with children and young people, and adults involved in the justice system. The identifying worker from the relevant team requires to put in writing and advise their Senior Social Worker who in turn will negotiate with the relevant Community Care Senior Social Worker about the best way to proceed with the referral and any subsequent inquiry and/or investigation.

In the event that a young adult has an allocated Social Worker and the parent or guardian of a young adult has been identified (after any inquiry under the Act) as requiring ongoing support e.g. carers assessment, practical support, referral to other agencies this will be followed up by the children and families worker. It should also be noted that other legislation and provisions exist which include support to young person's up to the age of eighteen and sometimes up to age 25, dependent on circumstances. In community care services within the course of routine care management there may be occasions where concerns are raised in relation to the welfare of an adult. Consideration should always be given to escalating concerns, using Adult at risk procedures where appropriate, to ensure the rights of the adult are protected and the appropriate legislative framework is in place. The worker should review the CareFirst observations and Chronology if available for any previous concerns/risk of harm to inform further decision making.

Where a worker, in conjunction with their Senior Social Worker/Team Lead decides that escalation is not required, the minimum intervention and recording should be as follows:

- Nature of concern recorded on Care First using Adult Protection observation;

- Narrative should give a narrative of the concern and action taken to manage the risks identified within the current care plan;
- Worker should ensure that the chronology on CareFirst is updated



Note – The role of Children & Families and Criminal Justice Social Workers

Children and Families and Criminal Justice Social Workers do not perform the function of Adult Support and Protection Council Officer in West Dunbartonshire. They may however fulfil the function of Second Worker where this is deemed appropriate

The Social Care (Self Directed Support) (Scotland) Act 2013 establishes a duty on Local Authorities to provide adults, children and families with choice over their care and support arrangements through the general principles of involvement, informed choice, collaboration, participation and dignity. See West Dunbartonshire's My Life Assessment (MLA) and the My Life Assessment Screening (MLA-S) tools. The powers and duties of the ASP Act remain the same regardless of whether a person chooses self-directed supports or elects for the Council to arrange support on their behalf. Adults who choose greater control and responsibility do not lose or compromise their entitlement to protection under legislation.

Adults with Incapacity (Scotland) Act 2000

The local authority also has duties under the Adults with Incapacity (Scotland) Act 2000 which incorporate the protection of adults with a mental disorder from harm, including:

- the supervision of welfare guardians where appropriate
- investigating complaints made against welfare attorneys, welfare guardians or those authorised under Intervention Orders
- investigating circumstances where the personal welfare of someone subject to a provision under the Act could be at risk
- making application for a Guardianship or Intervention order where this is necessary to safeguard the welfare of an adult and no-one else is pursuing such an order
- to consult the Office of Public Guardian (OPG) or Mental Welfare Commission where there is a 'common interest' (for example over the protection of an individual).

Social Work will link with the OPG in cases of financial harm where an adult lacking capacity is involved. When the OPG receives a referral about a Power of Attorney from other sources apart for the Local Authority or identifies a risk of harm by a financial guardian, they will always make an ASP referral to Social Work under S.5 of the Act. It should be noted that, where the allegation of harm is made against someone who has welfare powers as an attorney, guardian or intervener, the local authority can be directed by a Sheriff to supervise the activities of the legal proxy. It is also worth noting that it is an offence for any person who is exercising powers under the Act relating to the welfare of an adult, to ill-treat or wilfully neglect that adult.

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

The local authority has a 'duty to inquire' under section 33 of the 2003 Act where it appears that a person over the age of 16 with a mental disorder may be at risk to neglect or ill-treatment. The term 'mental disorder' under the Act includes people with a learning disability as well as those with a mental illness. In carrying out such inquiries the local authority may request the assistance of the following agencies:

- Mental Welfare Commission
- the Office of Public Guardian
- the Care Inspectorate

- Healthcare Improvement Scotland
- the NHS.
- Independent Advocacy

2.2.2 Police Scotland

The Police have the lead role for investigating where the actual or suspected harm to an adult at risk is thought to have constituted a criminal offence. It is not the responsibility of staff from any other agency to judge if a criminal act has occurred and they should err on the side of reporting and discussing with the Police who will decide if a criminal investigation is required.

The Police will investigate an alleged offence by gathering and preserving evidence. Staff from other agencies will have an important role in ensuring that forensic evidence is not lost and that, if the risk of harm is significant and ongoing, the adult is protected and isolated from the alleged perpetrator pending police intervention.

The Police will inform Social Work where they receive a report of a suspected offence or other concerns relating to an adult at risk whereupon it will be the responsibility of Social Work to co-ordinate overall investigative and protective action and an assessment of the individual's needs and risks. All referrals from the Police will be screened by the Police Concern Hub before passing these to Social Work to progress. Background information held by the Police which is relevant to an allegation will be retrieved and passed to Social Work at the time of referral or on request, by contacting the Police Concern Hub. If the alleged harm has occurred within a registered establishment the Police will also inform the Care Inspectorate or liaise where they are already aware.

Where there has been a physical or sexual assault the Police must be consulted immediately, and any medical examination (other than emergency medical treatment) should be carried out under the direction of the Police. Where emergency medical treatment is required and Police are not yet in attendance, medical staff should be made aware that the incident may be criminal and asked to treat the victim forensically as far as possible.

Police Scotland staff based in the Concern Hub can be contacted directly to discuss concerns: ArgyllDunbartonshireConcernHub@scotland.pnn.police.uk

They will raise Concern Forms (VPDs) in these circumstances and pass this information to be screened by both the police and the HSCP (as the lead Agency for ASP).

Further information on Third Party Reporting and Hate Crime is available on the Police Scotland website www.scotland.police.uk

2.2.3 Health Boards

NHS Greater Glasgow & Clyde

Health services delivered by NHSGGC through West Dunbartonshire HSCP include:

- primary care services
- community health services: adult nursing, alcohol and drug treatment and recovery services, learning disability services, mental health services, rehabilitation services, a range of allied health professional services such as physiotherapy
- GP services.

Health staff have a major role in identifying an adult is at risk of or experiencing harm and promptly reporting any such concerns to Social Work. All health staff are expected to attend appropriate training to carry out this role and actively maintain their awareness of local referral and inquiry processes. Health staff may act in the role of Second Worker during formal ASP processes and therefore should also be appropriately trained to do so.

Health staff also have a significant role in terms of prevention and early intervention. The HSCP has developed multi-disciplinary 'team around the adult' arrangements (MDTs) which enable information-sharing about emerging needs and risks and support early intervention to prevent the risks escalating. Some health staff will have a role when a medical examination is required as part of the ASP inquiry. Medical examinations under Section 9 of the Act can only be carried out by a doctor, nurse or midwife. In most cases a health practitioner will encounter or suspect harm to an adult at risk which has been caused by the adult themselves, a relative or other person known to the adult, in their own home, on HSCP premises or elsewhere in the community. Occasionally harm may be caused by strangers. All health staff are expected to follow NHSGSC policies and report any allegations of harm to Social Work immediately. If a criminal offence is suspected, the incident should be immediately notified to the Police.

Where the person alleged to have caused harm is a health employee, NHS Greater Glasgow and Clyde will take action in line with its own internal procedures to investigate allegations, where necessary take appropriate disciplinary action, and take immediate steps to safeguard patients. In all cases, instances of alleged harm to an adult at risk by an employee must also be reported to Social Work to assess the ongoing risk to the adult and the need for any other protective action under Section 4 of the Act. Where the alleged harm might constitute a criminal offence, the relevant manager will notify the Police. The Scottish Government has issued separate [Guidance for General Practice](#) about their role and responsibilities in terms of supporting and protecting adults at risk of harm, including information-sharing.

Scottish Ambulance Service

Scottish Ambulance Service provides emergency and scheduled care services pan Scotland attending circa 1500 homes a day. Service staff are in the privileged position of being invited into people's homes at some of the most intimate and stressful times of their lives and as such have a major role in the early identification of adults at risk in the community. Staff are trained to make situational assessments of the clinical, emotional and physical needs of their patients and are able to quickly identify those at risk in our communities.

Scottish Ambulance Service has responsibilities under the Act, these include the duty to report concerns about an adult at risk of harm to the local authority, and the duty to cooperate with the council and other named agencies where the council is making inquiries about an adult at risk of harm under the Act. The SAS will cooperate and coordinate with the relevant agency processes and requests for information to ensure that any adult at risk of harm will be protected.

NHS24

NHS 24 is the national provider of digital and telephone-based health and care services for Scotland. It is best known for providing care and advice when GP surgeries and pharmacies are closed. People across Scotland can call NHS 24 using the free phone number 111. This gives people access to help and advice if they cannot wait until their GP surgery reopens.

All NHS 24 staff have a statutory and professional duty to recognise, respond and share relevant, proportionate and necessary information with a relevant agency where they know or believe that an Adult is at Risk of Harm and may be in need of care and/or protection. Actions include to:

- Report the facts and circumstances of the case to the council, where they know or believe that a person is an adult at risk, and that protective action is needed; Section 5(3)
- Co-operate with a council making inquiries and with each other where that would assist the council; Section 5(2)
- Provide information and records as requested; Section 10.

It is important to note that NHS 24 have access to information contained within their own system and they do not have access to territorial board's (i.e. NHS GGC) health systems or any alerts. NHS 24 will undertake a risk assessment at the time of the call, and any immediate referrals will be directly phoned and referred to the appropriate agency (e.g. Police Scotland, Social Work, Hospital, or SAS). All referrals including non-urgent referrals will be sent directly to their internal Public Protection team who will prioritise them for onward referral to appropriate agencies. Additionally, NHS 24 utilise a single Public Protection referral form for both children and adults in need of protection and or individuals that may be on a pathway to harm or in need of a community care assessment. Where there is risk identified to an adult NHS 24 staff will always consider any risk or support required for children as part of the overall risk assessment.

2.2.4 Care Inspectorate

The Care Inspectorate has a duty to investigate complaints made in respect of the standards of care within registered services and one of its overriding objectives is to improve the protection afforded to adults at risk. It also has powers to enforce action legally if this is required.

In many cases, complaints received by the Care Inspectorate will not involve allegations of harm to specific service users and will relate more to instances of failing to meet care standards, poor practice or negligence. There may, however, be some cases where harm is alleged and involves the safety and welfare of one or more individuals using the service. In such circumstances, the Inspectorate will report the concern to the Police and/or Social Work as appropriate, in order to establish the need for criminal and/or ASP measures.

The Care Inspectorate also has a primary role in ensuring that registered services have their own internal procedures in place to support an effective response to allegations of harm involving members of staff, other service users or others known to the adult. Registered services must comply with the Care Inspectorate's notifications guidance when they become aware of an incident involving an adult at risk of harm.

The Care Inspectorate's strategic arm also plays an important scrutiny role in terms of services delivered on a partnership or integrated basis, including Adult Support & Protection.

2.2.5 Healthcare Improvement Scotland

Healthcare Improvement Scotland (HIS) took over the responsibility of regulating independent health services from the Care Commission in April 2011. Healthcare Improvement Scotland currently has a similar scrutiny and improvement role to the Care Inspectorate for independent hospitals, voluntary hospices, and private psychiatric hospitals.

2.2.6 Office of the Public Guardian

The main functions of the Office of the Public Guardian (OPG) are identified under the Adults with Incapacity (Scotland) Act 2000 as to:

- receive and investigate complaints relating to any cases in which the property or financial affairs of an incapacitated adult seem to be at risk

- investigate complaints in relation to the exercising of functions relating to intrusions with property or financial affairs by attorneys, guardians and others authorised under the Act
- supervise any guardian or other authorised person in the exercise of his functions relating to the property and financial affairs of the adult concerned
- consult the Mental Welfare Commission and any local authority on matters relating to functions under the Act where there appears to be common interest.

The OPG also has identified responsibilities under the Adult Support and Protection (Scotland) Act 2007. These include the duty to report concerns about an adult at risk of harm to the council, and the duty to cooperate with the council and other named agencies where the council is making inquiries about an adult at risk of harm under the Act. The OPG further has an acknowledged role in respect of Adult Protection Committees.

The OPG will thus link with Social Work where this is appropriate, for example in cases of alleged financial harm concerning an incapacitated adult, where there is a guardian supervised by the local authority or where the harm is thought to impact on the welfare of the adult.

2.2.7 Mental Welfare Commission

The Mental Welfare Commission has specific powers under the Mental Health (Care & Treatment) (Scotland) Act 2003 in relation to the protection of patients and other people with a mental disorder who are subject to an order or direction under the Act.

Where it believes that such a person may have been subject or exposed to ill-treatment, neglect or lack of care the Commission may carry out an investigation and make recommendations for action. The Commission's power to investigate sits alongside the 'duty to inquire' placed on the local authority in similar cases where someone with a mental disorder is thought to be at risk.

The Commission is also expected to exercise a protective function in respect of adults subject to Guardianship or Intervention orders under the Adults with Incapacity (Scotland) Act 2000 and to consult with both the Office of Public Guardian and the local authority where appropriate in the exercise of such functions. The Commission has the power to investigate where it feels that the local authority has not dealt appropriately with a complaint.

The Mental Welfare Commission should be notified if the adult at risk of harm is subject to Mental Health legislation.

Specific triggers that require the MWC to be notified:

- The death of any individual who is subject to compulsory treatment
- The death of any individual where there is a significant concern regarding any aspect of their care and treatment prior to death
- Where it is felt that a Fatal Accident Inquiry should or will be held
- All cases where an individual who is receiving care from mental health or learning disability services is accused of or convicted of, a serious crime, e.g. homicide, serious physical assault or sexual assault
- Where it appears that an individual is being/has been detained in any care setting without appropriate legal authority.

2.2.8 Scottish Fire and Rescue Service

While not specified in the Act, Scottish Fire & Rescue Services are recognised as contributing to the protection of adults at risk. There are many circumstances where Scottish Fire and Rescue Service will

become aware of an adult or child in need of support and/or protection. The current Scottish Fire and Rescue Service Prevention and Protection Community Safety and Engagement Safeguarding Policy and Procedures for the protection of Children and Adults at Risk of Harm provides clear guidance on the role and responsibilities of Scottish Fire and Rescue to recognise, report and co-operate with Social Services and partners.

All multi agency frontline staff should be aware of the potential risk of fire in homes they may visit and should actively encourage people they are working with to access Home Fire Safety Visits. Any worker who wishes to access this on behalf of an individual should contact the Scottish Fire and Rescue Prevention and Protection Officer.

In some cases, harm may have been done, or threatened, by deliberate fire-raising. Following any deliberate fire intended to cause harm, Operational Crews will seek to ensure that the fire scene is preserved and SFRS Fire Investigation personnel will ensure that the Police are provided with forensic evidence and details surrounding the circumstances of the fire.

Where fire is used as a threat, the SFRS will seek, in conjunction with its partner agencies, to alleviate the immediate fire risk pending other actions taken by the Lead Agencies.

The SFRS, in its Fire Safety Enforcement capacity, will also conduct regular fire safety audits within registered care establishments and will refer any adult protection issues to Social Work.

The SFRS has in place an 'Adults at Risk of Harm' Procedure which provides staff with an awareness of adult protection issues and clear guidance on how to take the appropriate action.

2.2.9 Third and Independent sector

All independent care providers and Third Sector organisations and groups will have internal safeguarding procedures in place. As well as policies that address the need, where appropriate, for disclosure checks in relation to members of staff and volunteers, organisations and groups will also have procedures that set out action to be taken in the event of actual, disclosed or suspected harm to an adult at risk involving:

- a member of staff or volunteer in relation to a service user
- a service user in relation to another service user
- a person from outside the agency known to a service user.

It is necessary to distinguish between the role of independent care providers and Third Sector organisations in investigating allegations made against their own staff or volunteers and the responsibility of Social Work to ensure the protection of individual service users.

- The role of independent care providers and Third Sector organisations is to:
- take immediate steps required to protect the adult and any other service users thought to be at risk
- refer the allegation to Social Work and/or the Police
- inform the Care Inspectorate (if a registered service) and Contract Management
- take action under relevant procedures in respect of a staff member or volunteer.

The role of Social Work is to:

- formally investigate such allegations in order to assess the risk to one or more individuals
- take appropriate action to protect adults identified as being at risk

- link with the Care Inspectorate if the agency/organisation is a registered service to agree responsibilities in terms of the immediate protection of any adult currently at risk.

Social Work (if appropriate, in conjunction with the Police and /or Care Inspectorate) should lead investigations into alleged harm of an adult at risk against an individual and any other action taken by the independent care provider or Third Sector organisation should not delay or prevent the Social Work investigation.

Supporting guidance has been developed locally for care and support staff in all sectors to help them identify and report adult protection concerns. [West Dunbartonshire Guidance for Care and Support Staff](#).

2.2.10 Independent Advocacy organisations

Independent Advocacy services' primary purpose is to advise adults with a mental disorder of their rights and to independently represent the views of those service users. This can include non-instructed advocacy where the adult does not have capacity, decisions need to be made about the adult's support and welfare, and there are no proxy powers in place. When ASP procedures are triggered, Independent Advocacy has a vital role to support the adult to express their views or represent those views, in line with the principles of the 2007 Act and the duty to support at S.6 of the Act. Their role can be summarised as follows:

- sharing information with Social Work where harm or a risk of harm is identified by a worker or disclosed by the adult at risk or shared by a carer
- Vulnerable Adults have a right to independent advocacy support through the ASP process, who should ensure the person with a mental disorder have appropriate information about their rights; support them to access those rights; support to communicate their views and wishes to others and to participate in or provide reports to any discussions or meetings taking place.

Contact details of Independent Advocacy services are provided in Appendix 4.

2.2.11 Independent Carers Organisations

All areas have a Carers Centre whose primary purpose is to independently support and represent the views of unpaid carers in the area and has a vital role within the adult support and protection process in the following areas:

- where harm or a risk of harm is identified by a worker or member, disclosed by the adult at risk or shared by a carer
- providing support to a carer to alleviate stressful or conflict situations and the potential for the harm to an adult at risk, in particular where the adult at risk has capacity and does not wish any protective action to be taken
- making informed judgments (with the assistance of sound internal procedures) as to what the agency itself can achieve and the situations where concerns have to be passed to Social Work or the Police to ensure the safety of the adult and/or carer
- providing advocacy and support for carers where appropriate at any point during ASP processes.

Contact details of carers support organisations are provided at Appendix 4.

2.2.12 Other local authority services and arms-length organisations

Staff from a range of other services within West Dunbartonshire Council and West Dunbartonshire Leisure Trust may encounter the actual or suspected harm of a service user or someone known to the service user, or have information reported to them. Examples of this will include:

- Trading Standards staff dealing with a bogus workman incident where the victim has a disability or impairment

- Environmental Health staff visiting properties where there are signs of hoarding and neglect
- Community Safety staff responding to concerns about anti-social behaviour which affects an older or more vulnerable adult
- Education and Employability staff working with young adults over the age of 16 in fulltime education or work programmes.
- Housing staff working with tenants and households at risk of homelessness
- Leisure Trust staff and volunteers providing adult education, library or leisure services. It is expected that all departments within the Council will have procedures in place so that staff are clear as to the appropriate action to take in such circumstances and an awareness of the issues around adult protection.

2.3 Multi-Agency Working Under the Adult Support and Protection (Scotland) Act 2007

Partner statutory agencies working within West Dunbartonshire have had the following obligations placed on them under The Act. The Code of Practice (2022) clarifies that these obligations also apply to organisations commissioned by named public bodies to deliver services on their behalf.

2.3.1 Duty to co-operate (section 5)

This section of the Act applies to the following named bodies (and their employees)

- Mental Welfare Commission for Scotland
- Healthcare Improvement Scotland
- Office of Public Guardian
- all councils
- chief constables of Police Scotland
- the relevant Health Board
- any other public body or officeholder as the Scottish Ministers may by order specify.

The public bodies and officeholders to which this section applies must, so far as consistent with the proper exercise of their functions, co-operate with:

- a council making inquiries under section 4
- each other where such co-operation is likely to enable or assist the council making those inquiries.

2.3.2 Duty to report concerns

In addition, where a public body or officeholder to which this section applies knows or believes:

- that a person is an adult at risk (that action needs to be taken in order to protect that person from harm)
- the public body or office holder must report the facts and circumstances of the case to the council for the area in which it considers the person to be.
-

2.3.3 Examination of records (section 10)

A council officer appointed by Social Work may require any person holding health, financial or other records relating to an individual whom the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer.

Such a requirement may be made during a visit or at any other time.

Requirements made at such other times must be made in writing.

Records given to a council officer in pursuance of such a requirement may be inspected by:

- the officer

- any other person whom the officer, having regard to the content of the records, considers appropriate for the purposes of enabling or assisting the council to decide whether it needs to do anything (by performing functions under this Part or otherwise) in order to protect an adult at risk from harm.

In the case of health records, the Act says that these can only be inspected by a nominated health professional and the council officer requesting the records can only examine them in order to determine whether they are health records. 'Health records' are defined in the legislation as records relating to an individual's physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual. The implementation of integrated health and social care delivery arrangements since the Act was introduced has resulted in particular staff and teams within the HSCP (such as the Alcohol & Drugs Recovery Service) being permitted to access specified records belonging to the other partner agency on a day to day basis.

National guidance to facilitate the inspection of financial records, held for example by the Department of Work and Pensions, or banks and building societies, has been developed by the Scottish Government.

2.3.4 Role of independent care providers and Third Sector Organisations

The Code of Practice accompanying the 2007 Act advises that it will be good practice for all relevant stakeholders to cooperate with assisting inquiries, not only those who have a duty to do so under the Act. It recommends that HSCP's keep under review their contractual agreements with voluntary or private sector providers to ensure that their services and procedures are consistent with the principles of this Act.

The Code of Practice states that, whilst independent care providers and Third Sector Organisations do not have specific legal duties or powers under the Act, these organisations should discuss and share with relevant statutory agencies information they may have about adults who may be at risk of harm. A key point to bear in mind is that the local authority has commissioned these organisations to deliver services on its behalf. They may also be a source of advice and expertise for statutory agencies working with adults with disabilities, communication difficulties or other needs.

Independent care providers and Third Sector Organisations also have a legal duty to comply with requests for examination of records.

2.3.5 Adult Protection Committees (section 42)

The Act places a duty on each Council to establish a multi-agency Adult Protection Committee with the following functions:

- to keep under review the procedures and practices of the public bodies and officeholders to which this section applies which relate to the safeguarding of adults at risk present in the council's area (including, in particular, any such procedures and practices which involve co-operation between the council and other public bodies or officeholders to which this section applies)
- to give information or advice, or make proposals, to any public body and officeholder to which this section applies on the exercise of functions which relate to the safeguarding of adults at risk present in the council's area
- to make, or assist in or encourage the making of, arrangements for improving the skills and knowledge of officers or employees of the public bodies and officeholders to which this section applies who have responsibilities relating to the safeguarding of adults at risk present in the council's area
- any other function relating to the safeguarding of adults at risk as the Scottish Ministers may by order specify.

The Act expects the following public bodies to assist with the promotion of good inter-agency working by assisting with the functions of the Committee:

- the Health and Social Care Partnership
- the Council
- the relevant Health Board
- the chief constable of the police force maintained in the council's area
- any other public body or officeholder as the Scottish Ministers may by order specify.

The Council is responsible for appointing the convener of the Committee and the other members 'who appear to it to have skills and knowledge relevant to the functions of the Adult Protection Committee'. It is for an Adult Protection Committee to regulate its own procedures, but those procedures must allow a representative of:

- Mental Welfare Commission for Scotland
- Office of Public Guardian
- Care Inspectorate
- Healthcare Improvement Scotland
- any other public body or officeholder as the Scottish Ministers may by order specify.
- to attend Committee meetings.

Each of these public bodies and officeholders must provide the Adult Protection Committee with any information which the Committee may reasonably require for the purposes of performing the Committee's functions.

The convener of an Adult Protection Committee must prepare a general report on the exercise of the Committee's functions on a biennial basis. After securing Committee and Chief Officers' approval of the report, a copy of it is circulated to Scottish Ministers and the other public bodies and organisations named in the Act.

Adult Protection Committees and Councils must have regard to any guidance issued by the Scottish Ministers about their functions under sections 42 to 46. West Dunbartonshire Council operates the multi-agency Adult Protection Committee for West Dunbartonshire in accordance with the [Guidance for Adult Protection Committees](#).

The Committee have adopted and will keep these Multi-Agency Adult Protection Procedures under review.

2.4 Dilemmas in Adult Support and Protection

Guidance on the interpretation of the Act in practice is provided in general by the Code of Practice (2022). and the Code should be consulted where there are particular issues about the application of the Act which require clarification.

2.4.1 Consent

During any investigation the adult should be seen in a physically and emotionally safe environment. If possible, this should not be in the presence of any person alleged to have caused harm.

The 2007 Act requires that the consent of the adult at risk of harm be obtained before undertaking any of the following actions:

- interview
- medical examination

- application for an assessment order, removal order or banning order.

The adult must also be advised of their right not to take part in any interview, assessment or application for an order.

There are two stages at which the adult's ability to give consent requires to be considered:

- did the adult give informed consent to the act, relationship or situation which gave rise to the alleged harm?
- does the adult give informed consent to action being taken in relation to actual or potential harm?
- The situation could involve one of the following scenarios:
 - the adult has capacity and consents to action proposed under the Act
 - the adult has capacity but is not consenting to action proposed under the Act
 - the adult lacks capacity and is refusing to co-operate with (or unable to consent to) the proposed action under the Act
 - the adult lacks capacity and there is someone who holds welfare power of attorney or guardianship over the adult who can agree or disagree with actions being proposed
 - the adult has been judged to lack capacity but nevertheless is complying with or even appears to 'consent' to the proposed action.

2.4.2 Capacity

It is essential that during the investigation process the adult fully understands the nature of the concerns and the decisions facing them. Therefore, the adult's capacity in relation to decision making must be established.

Any communication difficulties experienced by the adult due to sensory impairment, language or any other factors should be addressed with the assistance of appropriately trained interpreters, or visual or mechanical aids. An inability to communicate an opinion or decision due to communication difficulties which could be rectified does not constitute incapacity.

An assessment of the adult's capacity and level of understanding forms a vital part of the initial interview with the adult in terms of whether the adult is able to give informed consent within the investigation (such as further interviews or a medical examination) and to any actions proposed to protect the adult.

Capacity must be assessed in relation to the specific activity or issue being considered. It must not be assumed that capacity or lack of capacity in one area (e.g. consent to medical treatment) signifies a similar degree of capacity in another area (e.g. consent to an intimate relationship).

The assessment of capacity needs to determine whether the adult:

- is capable of making and communicating decisions
- understands the nature of what is being asked and why
- has the memory to retain this information and memory of their decision.
- has an awareness of the risks and benefits involved
- can understand information that is relevant to them
- is aware of their right to refuse consent, understands the consequences of refusing consent and is able to act on this.

Discussion about capacity issues should be a key part of any Planning Meeting. An assessment of capacity requires to be completed by medical or other relevant professionals. Decisions in the meeting must be based on the adult's current capacity and should not be based on assumptions of capacity or a previous capacity assessment.

If disagreements or differences of opinion in relation to an adult's capacity occur, the matter must be referred immediately to the adult's GP to address or a referral made for specialist assessment. Any essential action required to protect the adult should not be delayed as a result of this. Issues relating to capacity should be recorded clearly.

2.4.3 Undue Pressure

Where the adult has full capacity and refuses consent to an action being taken in relation to actual or potential harm, this should not automatically result in a 'no further action' outcome. Further consideration must be given to the circumstances, in discussion with relevant others, in order to ensure that issues such as issues of undue pressure have been considered.

The consent of an adult who is judged to have capacity may be influenced by the fact that they are experiencing coercion or intimidation either from the person causing harm or another person. When this situation is believed to apply, all efforts will be made to offer the adult 'distance' from the situation in order to minimise the influence of the person causing harm or others and to facilitate uncontaminated decision-making.

A removal order or banning order may be appropriate courses of action in these circumstances.

Section 35 of the 2007 Act provides that where the adult at risk has refused to consent the Sheriff may ignore the refusal where the Sheriff reasonably believes:

- that the affected adult at risk has been unduly pressurised to refuse consent;
- that there are no steps which could reasonably be taken with the adult's consent which would protect the adult from the harm which the order or action is intended to prevent.

It must be agreed that there are no steps which could reasonably be taken without the adult's consent before proceeding to apply for an order. For example, where an informal approach to move the adult to another place for interview and/or a medical examination has been unsuccessful.

For an application to succeed where the adult at risk of harm has capacity to consent and has made known their refusal to consent, then it must be proven that the adult has been 'unduly pressurised' to refuse to consent to the granting of an order.

The Code of Practice at Chapter 11 explores what may be considered to be undue pressure. This states that an adult at risk may be considered to have been unduly pressurised to refuse to consent if it appears that:

- harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust
- that the adult at risk would consent if the adult did not have confidence and trust in that person
- The Code of Practice suggests that the most obvious relationships to assume confidence and trust would be between parent-child, siblings, partnerships and friendships. The assessment of undue pressure may include the development of the relationship and how the suspected harmful circumstances may have resulted in the affected adult's refusal to consent.

Undue pressure may also be applied by a person that the adult is afraid of, or a person who is threatening them and whom the adult does not trust. Where the adult is judged capable of making an

informed decision and chooses to remain in the harmful situation even after the risks have been fully discussed with him or her, this should be clearly recorded.

The process of applying ASP procedures should continue if the risk of harm is likely to continue and an action plan (or protection plan via a case conference) should be drawn up detailing how support can continue to be provided and how this will be monitored without the involvement of the adult at risk. In these situations, the Council's Legal Section will determine if there is any statutory basis for intervening in such cases.

Where an adult lacks capacity and is refusing consent, consideration will be given to intervening under Adults with Incapacity or mental health legislation before considering action under the 2007 Act under 'undue pressure' e.g. a warrant under the Mental Health (Care & Treatment) (Scotland) Act 2003. The use of these alternatives will depend on the urgency of the situation in terms of risk to the adult and the timescales involved for other options.

In making any application for an order where the adult lacks capacity, it is important to be able to evidence that all possible methods have been utilised to support the adult to make decisions. Reference should be made to the Scottish Government publication [Adults with Incapacity \(Scotland\) Act 2000: A Guide to Communication and Assessing Capacity \(2008\)](#).

2.5 Orders, Warrants and Offences

Use of Protection Orders

Definition: Protection Orders can only be applied for where there is evidence of serious harm to the adult; where the adult has capacity for decision making a protection order cannot be granted by the Sheriff without the adult's consent unless it is proved that the adult has been subject to undue pressure to refuse consent.

The Adult Protection Lead Officer should be notified by the Senior Social Worker in all cases where a Protection Order is being considered and when an Order has been granted. A copy of the Order should be sent via secure email to the Public Protection Admin Assistant.

The Adult Protection Lead Officer is responsible for formally notifying the Mental Welfare Commission of those adults with a mental disorder who are subject to a Protection Order.

The three types of Order that can be applied for to the Sheriff Court

Assessment Order (s11)

This authorises the Council, if necessary, to take a specified person at risk of harm from a place being visited in order to allow:

- A Council Officer or any Council nominee, to interview the specified person in private and;
- A Health professional nominated by the Council Officer to conduct a private medical examination of the person at risk of harm.
- The purpose is to enable or assist the Council to decide whether the person is an adult at risk and;
- If it decides that the person is an adult at risk, whether it needs to do anything in accordance with the Act in order to protect the adult from harm
- An Assessment Order is valid from the date specified in the Order and expires 7 days after that date

Criteria for granting an Assessment Order

The Sheriff may grant an Assessment Order only if satisfied;

- That the Council has reasonable cause to suspect that the person is an adult at risk of harm is being or is likely to be seriously harmed
- As to the availability and suitability of the place at which the person is to be interviewed and examined.

Restriction on exercise of Assessment Order

- A person may be taken from a place in pursuance of an assessment order only if it is not practicable (due to a lack of privacy or otherwise) to
- interview the person under section 8, or
- conduct a medical examination of the person under section 9
- The Order is primarily to facilitate an interview or further assessment does not contain powers of detention.
- It can be enacted for up to seven days after the date specified in the Order.
- The adult can refuse to be interviewed, examined, or accompany the Council Officer despite the Order.

Removal Order (s14)

This allows a Sheriff or Justice of the Peace (in an emergency situation) to authorise the removal of the adult to another place primarily for the purpose of protection. The Order must be effected within 72 hours of being granted and can then last for a maximum of seven days although it does not contain a power of detention and the adult can refuse to remain within the place that they have been taken to despite the order being granted.

Banning Order/Temporary Banning Order (s19)

These Orders ban the person or persons likely to cause harm from being in a specified place. An application for a Banning Order can be made by any person including the adult at risk. A banned person can be an adult or a child. Where consideration is being given to applying for an Order which bans a child, this should include prior consideration of making a referral to the Children's Reporter where it is believed there would be an effective case to answer. If the circumstances are such that there is a need to act urgently, then a referral to the Children's Reporter should be made at the same time as the application for an Order.

Conditions can be placed on Banning Orders by the Sheriff, including the length of the Order (up to six months), conditions of/to contact, or attaching a power of arrest. These can be appealed against by the person being banned.

It should be noted that in situations where adults perpetrating harm are subject to statutory criminal justice disposals this supersedes the Adult Support and Protection Act in terms of protection orders which should be used.

Representation of the Adult

The adult is entitled to be represented within the Court process. Where the adult concerned has indicated they do not wish to have legal representation, or it appears they do not understand the process, this should be recorded and indicated to the Court by the Council. The Court retains a common law power to appoint a Curator ad Litem where a person is party to a case but does not have full mental capacity. The Sheriff has discretion to appoint a Safeguarder before deciding on an Order. The role of the Safeguarder is to safeguard the interests of the adult at risk in any proceedings relating to applications and the Sheriff may instruct the safeguarder to report on the issue of consent.

Should the Council Officer become aware that the person suspected of harming the adult may also attend proceedings e.g. where the adult wishes to be accompanied by that person, the Council Officer should instruct Legal Services to inform the Sheriff prior to the Hearing being held. This will allow the

Sheriff to decide whether to apply the provisions available under the Vulnerable Witnesses (Scotland) Act 2004.

Serving of the Order

The Council Officer will ensure that Legal Services are made aware of any arrangements that may need to be made when the Order is served on the adult. Legal Services will make initial contact with relevant persons such as Sheriff Officers and the Police in order to organise the service of papers.

Breach of an Order with Power of Arrest

The Power of Arrest becomes effective only when served on the subject of the Order.

Under Section 28 of the Act where a Banning Order or Temporary Banning Order has a Power of Arrest attached a constable can arrest the subject of an order if the constable reasonably suspects the subject to be breaching or have breached the Order and considers if they were not arrested, they would be likely to breach the Order again. This simply means the constable cannot arrest the subject for having breached the Order alone.

The police must pass the facts and circumstances regarding the incidents which gave rise to the arrest for breach of the banning order to the Procurator Fiscal who will determine if there is sufficient evidence to take any further criminal proceedings, for example assault or harassment of the adult at risk.

Warrants for Entry including Council Officer Role

Definition: A Warrant authorises a Council Officer, accompanied by a Police Constable, to visit any place specified in the warrant for the purposes of conducting an investigation.

If any Warrants are being sought the Council Officer must at the earliest opportunity contact or involve the Senior Social Worker, Legal Services who will allocate a Solicitor to prepare and make the application.

The Council Officer must:

- Make contact with the local police office if police assistance is required
- Contact the Council if there may be a need for a joiner to secure premises i.e. if a door requires to be forced open by Police as a last resort to gain entry
- Ensure the Protection of property (s18) if a Protection Order is enforced; that may mean making arrangements to protect the moveable property or goods belonging to the adult are at risk if no other arrangements can be made
- Take an inventory of the moveable items and as far as possible ask the subject of the banning order to sign that this is correct with a copy being provided to the adult and the original retained for the file.

Note – Difficulty accessing an adult – an order with a warrant

If a Council Officer is unable to access the adult a Warrant for entry (s37) may need to be applied for at the same time as the Protection Order. Evidence would be required to substantiate that it is reasonable to conclude that entry could not be gained without the Order. It should be noted that the adult at risk cannot be financially charged for any protective action taken under a Protection Order.



Offence of Obstruction

Section 49 of The Act creates an offence of obstruction which applies where a person, without reasonable excuse, refuses or fails to comply with a request for access to record or

prevents or obstructs any person from doing anything they are authorised to do under The Act. Penalties include the potential for imprisonment for a term not exceeding three months.

Section 3 Procedures for Staff From all Partner Agencies

All staff should refer to the flowchart at Appendix 1 for an overview of the ASP process.

3.1 What do I do if I have concerns about possible harm to an adult at risk?

Staff from all the partner agencies operating under these procedures have:

- a duty to report any concerns, suspicions or evidence of harm to an adult at risk they become aware of
- a duty to co-operate with any inquiries undertaken by the Council's Social Work staff.

In data protection terms, these explicit duties under S.5 of the Act allow partner agencies to share personal information about adults at risk of harm. You may witness harmful behaviour or a situation where there is a risk of harm to the adult in any place, including the adult's home or a care setting. In other cases, you may have concerns passed on to you by a colleague, relative or friend of the adult, or a member of the public. The adult may disclose to you that he or she has been harmed or fears being harmed.

The member of staff with concerns should consult Section 1 of these procedures to assist in making a judgement as to whether harm has happened or there is potential for harm to happen, and whether there is a need for action to support and protect an adult at risk.

Where this is the case, the member of staff should refer to their agency's internal adult protection procedures and discuss the appropriate action with his or her line manager.

Professional staff may be mindful of their respective codes of practice as well as data protection considerations in reporting their concerns. Health staff may also wish to refer to the HSCP's Information-Sharing Protocol between NHS Greater Glasgow & Clyde and West Dunbartonshire Council which clarifies information which must be shared in order to offer or provide adults with appropriate support and protection. The Code of Practice at Chapter 3 provides further guidance on sharing information about adults at risk of harm for partner agencies.

It may be that staff members involved need safeguards to support them to voice their concerns. All organisations should have a whistleblowing policy in place to support staff in such situations. It is not the responsibility of the staff member to prove any allegations before sharing their honestly held concerns, their duty is to share any information they have that an adult may be at risk of harm. In most instances staff will be willing to voice their concerns to their line manager but occasionally may feel reluctant to do so because of:

- fear that the manager will not take the matter seriously or act appropriately to protect service users
- evidence that the manager or proprietor may be responsible for or implicated in the harmful behaviour
- fear of intimidation or harassment by managers or colleagues.

In these circumstances it is legitimate for an employee to use other channels for reporting concerns in order to safeguard an adult at risk. Normally this should be done by making a direct ASP referral to Social Work, although staff employed by registered providers may also raise a concern with the Care Inspectorate.

3.2 What if I need to take immediate action to protect the adult?

In all cases where the adult is thought to be in immediate danger, the staff member should call the relevant emergency service on 999 e.g. ambulance, police.

The following is a brief checklist to guide staff where there is an opportunity to engage with the vulnerable adult:

DO

- ✓ listen to the adult
- ✓ offer reassurance and support whilst being clear to the adult that you may not be able to keep any information they give you confidential if they are at risk
- ✓ ask simple, non-leading questions to obtain the facts
- ✓ make careful notes (including date and time)
- ✓ take precautions to preserve any forensic evidence
- ✓ if the person being injured, make a note of the injuries inform your line manager (or other Social Work manager) as soon as possible.

DO NOT

- × dismiss the adult's concerns or be judgmental
- × interview or investigate beyond what is essential to establish the basic facts
- × make promises that cannot be kept e.g. around keeping a confidence or that 'nothing will happen'
- × share the information with colleagues where the allegation involves another member of staff.

When and how should I share confidential information with Social Work or other investigating agencies?

Whether you are providing information at the point of referral, via less formal discussions or within a formal meeting, you are likely to be sharing information about individuals which would normally be considered personal, sensitive or confidential.

Where the actual or suspected harm to an adult at risk triggers **the duty to notify concerns** (Section 2.3.2), you should avoid any unnecessary delay in passing on concerns to Social Work, the Police or other appropriate statutory body, such as the Office of Public Guardian or Care Inspectorate. Even in such circumstances, you should only share the adult's personal information on a 'need to know' basis. In cases where information about an adult at risk is shared between NHS and Social Work practitioners, reference can additionally be made to the Information-Sharing Protocol agreed between West Dunbartonshire Council and NHS Greater Glasgow which confirms patient confidentiality can be:

- overridden if the holder of the information can justify disclosure as being in the public interest (e.g. to protect others from harm).

The protocol also emphasises that:

- numerous enquiries into service failures in the health and social services have criticised agencies for failing to share relevant information; none have criticised agencies for sharing too much.

A summary of the operational procedures relating to the West Dunbartonshire / NHS Glasgow & Clyde Information-Sharing Protocol is available from the HSCP website or directly from staff. GPs should refer to the revised guidance issued to them by the Scottish Government.

Wherever possible the consent of the adult at risk should be obtained prior to information being shared on their behalf. Where the adult is judged to lack capacity to make an informed decision - or you are aware of intimidation or coercion from others influencing a refusal of consent - it may be necessary for you to take a professional decision to override the adult's expressed wishes where it is believed that the adult continues to be at risk of significant harm. Even where the adult is judged to be taking an

informed and autonomous position, you should consider the risks and the adult's other areas of vulnerability prior to deciding not to share information with Social Work. You must always record your reasons for such a decision.

3.3 When should the Police be involved?

The Police should be contacted whenever it is thought that a criminal offence may have taken place. If this is not immediately obvious, the Police should be consulted in order to clarify the position with them. Social Work will retain overall responsibility as lead, even where there is a suspected criminal offence, but the Police investigation will take precedence over any other investigative activity, until concluded. If in doubt, reports to the Police can be made following consultation with Social Work, but this consultation should not delay making a report to the Police in an emergency situation or where there is clear evidence of a crime having been committed.

3.4 What if the adult does not wish to be assisted?

Wherever possible you should act in accordance with the expressed views and wishes of the adult. A primary aim of adult support and protection action is to empower the adult and to secure or reinstate their autonomy.

However, the principles contained within these procedures also acknowledge the paramount aim of protecting adults at risk and the requirement to override the expressed views of the individual if there are indications that the adult:

- lacks the capacity to make an informed decision as to what is in their best interests and/or
- is declining assistance because of undue pressure (see Section 2.4.3) or
- neither of the above is immediately obvious but the adult at risk nevertheless is choosing to remain in a situation which poses an immediate and significant risk to their safety and wellbeing.

In order to be sure that the adult is making an informed and independent decision it may be necessary to create a safe place in which to consult the person about their wishes and to assess their capacity to make decisions which impact on their safety and welfare.

You should be encouraging the adult to accept the need for intervention and to agree to your passing information on to Social Work and/or the Police. If this is not possible and there is a risk of significant harm you should inform the adult that you are obliged to report your concerns.

If you are in any doubt, you should discuss the matter with your line manager or other appropriate manager.

3.5 What if there are also children at risk?

The Act uses the term 'adult' throughout. In terms of the Act, an 'adult' is defined as a person aged 16 or over, whilst different legislation may define a person as a child until they reach their 18th birthday. According to the NSPCC:

"In Scotland, the definition of a child varies in different legal contexts, but statutory guidance which supports the [Children and Young People \(Scotland\) Act 2014](#), includes all children and young people up to the age of 18.. Where a young person between the age of 16 and 18 requires support and protection, services will need to consider which legal framework best fits each persons' needs and circumstances. [The National Guidance for Child Protection in Scotland \(2021, updated 2023\)](#) gives more detail about this and explains how professionals should act to protect young people from harm in different circumstances¹⁷"

In West Dunbartonshire, any person under the age of 18 will be referred into Children's Services in the first instance, where there is any concern about their wellbeing.

It is also of crucial importance, and a common responsibility across all agencies, to consider the needs of any child who may reside or have contact with an adult(s) suspected of any form of harmful behaviour or who lives with an adult who is subject to harm which may be witnessed by the child. There are specific protocols involving Children's services and the Police if the harm is identified as domestic abuse, but workers should be mindful of children witnessing other forms of familial harm. This is especially relevant if the child/children live in same household as an alleged perpetrator(s). In such a case Child Protection Procedures should be followed in respect of the child/ children involved.

3.6 To whom do I make a referral?

If you have concerns about the safety or welfare of an adult at risk, you should report this immediately to your line manager or other appropriate manager. Following your own internal procedures, the relevant person should then contact one of the following agencies by telephone or in person:

- Social Work (who will accept and record referrals in all cases, including anonymous referrals)
- Police (where you believe a criminal offence has or may have been committed)
- Care Inspectorate (where the alleged harm occurred or is occurring within an establishment registered with the Care Inspectorate)
- Office of Public Guardian (where the adult lacks capacity and relevant financial powers have been granted).

Do not worry about which of these agencies you should first approach; it is far more important that your concerns are passed on promptly. The agency who receives the referral will link with other agencies as appropriate to decide who investigates or whether there should be a joint investigation. Contact details are in Appendix 4.

The West of Scotland Adult Protection Interagency Referral Form (Appendix 2) should be used to provide detailed information about the alleged harm and what immediate action was taken by the referrer. Do NOT use the form to initiate contact with Social Work: you should only submit it AFTER a direct referral has been made by phone or in person. The completed Interagency Referral Form should be sent via the Adult mailbox to Social Work, who will progress the inquiry.

These multi-agency procedures recognise the specific 'lead' roles of the Police in criminal investigations and the Care Inspectorate in investigating complaints about the care of one or more individuals within a registered establishment. The Adult Protection Committee's Large Scale Investigation protocol provides specific guidance on the coordination of parallel investigative action by Social Work, the Police, the Care Inspectorate, etc where a number of adults are at risk of harm.

The following sections reflect Social Work's lead role in the overall co-ordination of:

- the inquiry into alleged harm to an adult at risk (although the actual investigation may be carried out by another agency or jointly involving more than one agency)
- assessing the vulnerability of and ongoing risk to the adult (with the assistance as necessary of other professionals)
- any immediate statutory intervention required to safeguard the adult
- action required following an inquiry to plan for the protection of the adult at risk (via multi-agency discussion and participation in the protection plan).

3.7 How will Social Work respond to my referral?

When you contact Social Work, you will be asked for essential information relating to your concerns in order that a judgment can be made as to the appropriate action (if any) that needs to be taken. In particular, a decision will be taken as to whether the information you provide requires use of the investigatory powers under ASP procedures.

Every reported incident of actual or suspected harm to an adult at risk received by Social Work will be taken seriously and given priority in terms of assessment and protective action.

You may be concerned that contacting Social Work will automatically trigger an investigation even though you are uncertain as to whether what you are reporting constitutes 'harm' and whether immediate intervention would be in the best interests of the adult at risk.

Social Work will undertake desktop inquiries to gather other available information from their records and from other relevant agencies before making their initial assessment as to whether further ASP inquiries or intervention under these procedures are required. It may be that if any identified risks can be managed by other methods, such as signposting or referral to a new or additional service, a review of an existing support plan or allocation to a social worker, and further formal ASP action is not necessary.

Social Work normally aim to complete initial inquiries and contact you with any updates they are able to share on the outcome of their inquiries, within five working days of receiving your referral. Where your service has already initiated action to manage the risk to the adult, Social Work may apply the 'least restrictive' principle and defer completing their inquiries until the outcome of your agency's investigation or intervention is established.

Where there are indications that significant harm has or is likely to occur, it will be necessary to follow these procedures to ensure the safety of the adult at risk regardless of any action which may already have been taken.

You will be asked for as much of the following information as you are able to provide:

- your own name, address and telephone number
- names and addresses of the adult, the person alleged to be causing harm, and, where relevant, any carer and/or significant family members
- the current whereabouts of the adult and person alleged to be causing harm
- date of birth/approximate age of the adult at risk
- whether the adult at risk has capacity, a learning disability, mental health or communication difficulties (including those associated with dementia)
- whether the adult at risk is subject to any order under the Adults with Incapacity Act or Mental Health (Care & Treatment) Act or there is someone with power of attorney
- the identity of any witnesses and their contact details.

This detail should first be passed by phone or direct contact before being submitted on the appropriate Referral Form.

Social Work Service Teams will accept and record all telephone and written referrals from all sources, ensuring that all information is transferred onto the ASP Inquiry Form, including the details of the person being harmed. Anonymous referrals will be taken seriously and if the referrer makes a report and wishes to remain anonymous this must be noted on the AP1 form within the referrer section A.

3.8 How might my agency be involved in gathering information or planning action?

Although Social Work will generally take the coordinating role, crucial to thorough and effective ASP inquiries are:

- the collation of all relevant information
- clarifying roles across agencies
- planning appropriate intervention with the assistance of other professionals involved.

Where certain criteria are met (e.g. evidence of significant, imminent risk), an immediate interagency case discussion may be held. These meetings involve the core statutory agencies: Social Work, Police and Health. They are held virtually and hosted by the agency which has requested the meeting.

If time delays are likely to prejudice the collecting of forensic evidence or the immediate safety of the adult, a case discussion should be convened the same day, otherwise it is expected that the case discussion will take place within three working days of the incident being reported.

Where there is evidence that a criminal offence has been committed, the Police will lead the investigation at this stage unless otherwise directed by the Crown Office Procurator Fiscal Service.

Where harm to an adult at risk has occurred in a registered service or hospital setting, there will be a need to co-ordinate action with the Care Inspectorate, the host HSCP if out with West Dunbartonshire, the NHS and/or Healthcare Improvement Scotland.

In cases where the adult's capacity is unclear, it may be necessary to request a formal assessment of capacity from a medical professional.

The case discussion will therefore clarify and agree who leads and is involved in any necessary inquiries and set a clear timescale.

The case discussion will share and assess information to assist planning investigatory activity:

- where the risks to the adult or others appear to outweigh the adult's wishes and there is a need to override the individual's refusal of consent
- where the situation is complex and there is a risk of significant harm to the adult or others
- where difficulties are anticipated in accessing the adult or perpetrator or in setting up interviews
- where there is a criminal investigation and a need to preserve evidence
- where it is believed that more than one person is causing harm or the harmful behaviour may involve more than one adult at risk.

Where there is less urgency to the concerns, Social Work may alternatively convene an ASP Planning Meeting. The Planning Meeting may involve other professionals but is unlikely to involve either the adult or his/her family or the alleged perpetrator. This is to allow professionals to plan the investigation in an open manner with the maximum information made available to those attending. This is particularly important where there is an ongoing police investigation. The views of the adult if known at this point, as well as issues around consent and capacity, should always be central to the discussion. Both Case Discussions and Planning Meetings form part of the ASP inquiry, and a minute of the meeting will be circulated to those attending and any other key professionals.

3.9 The role of chronologies

It is widely recognised that people 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 person's life. They enable practitioners to gain a more accurate picture of the whole case and detail the history of a person 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 person 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:

- written in a consistent format using, where possible, a multi-agency template 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
- a record of both positive and negative significant events – positive events might increase protective factors and decrease risk
- 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. Each agency has a responsibility to maintain an up-to-date chronology for every adult at risk of harm and / or under ASP processes. Single agency chronologies should ensure that information describing key incidents, events and facts are passed on to the Social Work Council Officer at appropriate stages throughout the process. The Council Officer's responsibility is to ensure that the chronology is collated, up to date and presented appropriately. The West Dunbartonshire Adult Protection Committee has produced multi-agency [guidance on chronology of significant events](#).

3.10 The process - Referrals

The Senior Worker receiving the referral must ensure that no staff member is placed at risk and should complete the ASP Inquiry on CareFirst. They should consider:

- If any immediate medical assistance or police involvement is needed and arrange this if required
- Fire Risk and any action required to address this
- Any involvement of children, if confirmed they must report this immediately to the appropriate children and families duty team manager or relevant team manager
- If a registered service is identified, then consideration must be given to whether to proceed with an individual inquiry or to initiate a Large-Scale Investigation
- The appropriateness of alternative legislation for example AWI/MH(C&T) and if alternative is deemed appropriate, ensure that the outcome of the referral is recorded
- If a crime is suspected, for example sexual or physical or financial remember the requirement to preserve evidence and ensure advice is given to other agencies involved in relation to this.

Note: Repeat Referrals



If a client receives 3 or more referrals within a rolling six month period, or there is a significant pattern of referrals involving the same adult, then this is considered as a repeat referral and an Adult Support and Protection Case Discussion Meeting should be considered if no meeting has already taken place that involves a discussion in relation to any of the current three events. This is the responsibility of the Senior Social Worker for that client group who should decide, using professional judgement, on how to proceed. The decision should reflect a multi-agency decision and be recorded on CareFirst. The Lead Officer Adult Protection should be advised of the outcome.

Duty to Inquire - A 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, as defined by the Adult Support and Protection Code of Practice 2022 Section 3(1), and
- That it might need to intervene (by performing functions under this part or otherwise) in order to protect the person's wellbeing, property or financial affairs.

3.11 The process - Inquiries

On receipt of an adult support and protection referral or of other information that suggests an adult may be at risk of harm, the worker **MUST** make inquiries within 5 working days to determine:

- If the adult is at risk of harm and whether they meet the 3 point test criteria
- Whether adult protection intervention will provide benefit to the adult
- To consider whether statutory intervention under ASP legislation is required and whether this would be the least restrictive option to the adult's freedom.

Good practice suggests that even when an adult does not meet the 3 point test, consideration is given to whether they require other support.

The inquiry should be a multi-agency process, where the worker makes contact with all agencies involved in the provision of the adult's care and support. Relevant stakeholders may hold key information that will contribute to the assessment of the adult's situation and any potential risks to them.

In general, an adult protection inquiry will be an office-based exercise that concentrates on gathering information from other interested parties so that a decision can be made as to whether they are an adult at risk of harm and whether an investigation is needed. Where it proves impossible to gather information about the adult and their circumstances from other agencies because the adult is not known, a visit may be undertaken to them. This may still fall within the definition of an inquiry, in order to establish the position. However, where the adult is seen and the concerns discussed with them, and particularly where it appears likely that any further powers will be required under the Act this will usually be regarded as a formal adult protection investigation.

Note: second, or more, referrals for an adult already considered at risk of harm

On some occasions a second (or more) referral is received for an adult already considered at risk. This should go directly to the social work lead for the adult. If the referral relates to a known concern that is being managed through an agreed protection plan, the worker should complete the initial ASP form but make clear that the concerns are already being dealt with: no further investigation is required. If, however, the referral concerns a new allegation or a risk that has not, to date, been identified and responded to, this should be brought to the attention of the senior social work as soon as possible and another investigation should be undertaken.



Case Discussion

A case discussion, as referred to at section 3.8 above, is a multi-agency professionals meeting that can be used to explore issues prior to the start of an adult protection investigation. In particular they may be convened after the Inquiry stage and:

- Where the issues are complex and a co-ordinated approach to the investigation is required
- Where there are repeat referrals for an adult who is not considered to be at risk
- Where it is unclear from the inquiry stage whether or not the adult meets the 3 point test and this issue requires further exploration.

3.12 The process - Investigations

When it is decided that a referral should proceed to Investigation?

Where an adult protection inquiry suggests that there are grounds for considering that an adult is at risk and intervention may be needed to protect their well-being, property or financial affairs, a formal adult protection investigation will be undertaken. The investigation should begin within 8 working days of the referral. It is the responsibility of the duty manager responsible for the investigation to allocate it to a Council Officer and second worker, if required. Although a case may be open to a Council Officer there may be occasions where the manager takes the decision that a different member of staff should conduct the investigation in order to avoid a conflict of interest.

Adult Support and Protection Investigation

Any formal investigation undertaken under the adult support and protection legislation should be a carefully planned process undertaken by specifically identified staff and managed by the agreed responsible social work manager. The Council and partner agencies are bound by the Code of Practice which specifies the role of 'Council Officers' and who can carry out duties and use the powers under the Adult Support and Protection (Scotland) Act 2007.

Formal investigations will always be led by a Council Officer accompanied by a Second Worker. Although the lead Council Officer (and the person who would apply for any protection order) will always be a qualified and specially trained social worker, the Second Worker can be another social worker or social care worker, OT, nurse or other health professional where this would be advantageous to the investigation, for example if the adult at risk is known to the other practitioner, or they have specialist knowledge which will assist the inquiry.

Where the Police are carrying out a criminal investigation into the alleged harm of an adult at risk and it is agreed that Social Work will participate in a joint interview of the adult, for example during a Large Scale Investigation, the Social Work member of staff will be a Council Officer.

The role of the following partner agencies is crucial during many inquiries where they are already involved with the adult or their carer:

- independent advocacy organisations
- carer organisations

This is to facilitate the process and ensure that the views and interests of the adult and the person against whom allegations have been made are represented.

The overall coordinating role of Social Work comes into play in the post investigation phases of the ASP process in terms of:

- action following the investigation, including the convening of a case conference to draw up a Protection Plan for the adult ensuring arrangements are in place for reviewing and monitoring the safety and welfare of the adult at risk of harm and that the tasks identified for all agencies within the Protection Plan are implemented.

How the investigation will be conducted may have been discussed as part of a case discussion meeting, if one has taken place, but where this has not taken place a planning meeting should be considered to involve all those agencies and staff involved with the adult and to clarify lines of responsibility, formal information sharing, and agree timescales. In particular a planning meeting should be considered where:

- The adult appears not to be consenting to further action, but significant risks have been identified
- where the situation is particularly complex or involves a number of individuals
- where there is concern that it may be difficult to obtain access to the individual
- where it is suspected that a crime has been committed and there is ongoing police involvement.

In some cases, a planning meeting may simply consist of a recorded discussion between the Council Officer, second member of staff and the social work manager responsible with action points agreed and recorded. Consideration should be given to:

- The interview with the adult
- the time and place of the visit (at a reasonable time)
- who will ask the questions
- who will record the interview
- whether the adult has any need for communication supports
- involving independent advocacy services
- support for the adult's carer
- Who else may provide valuable information for the purposes of the investigation and accessing this information.

The purpose of the investigation will be to:

- 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.

As part of the investigation there is the need to identify if any other members of the household are at risk, including any children.

Interviewing the adult believed to be at risk:

Gathering the adult's views

The adult's views and wishes are central to adult support and protection, and every effort should be made at each stage of the process to ensure that barriers to the adult's participation are minimised. The Code of Practice at Chapter 4 indicates that the adult should be provided with 'assistance or material appropriate to their needs to enable them to make their views and wishes known. Reasonable adjustments should be made to support the adult's needs wherever identified'. Consideration should also be given to the surrounding environment. This can affect communication due to, for example, noise levels, provision of loop systems or lighting.

Specifically, the Code of Practice insists that, where action to protect the adult at risk is deemed necessary following initial inquiries:

- The adult should be asked if they know about and would like independent advocacy. Where advocacy is offered, declined by the adult or not deemed appropriate, the reasons for this should be clearly recorded, as should the reasons for not referring to any other 'appropriate' services. This decision should be re-visited and recorded at each formal review e.g. multi-agency meetings, review or professional meeting
- If communication is a problem or barrier e.g. due to English being a second language, sensory impairment and/or the need for special aids, the appropriate communication equipment and/interpretation service should be identified and offered. The assistance of Speech and Language Therapists (SALT) is particularly helpful in this respect. Whenever possible, the adults should be asked which format for communication they prefer. All aids and adaptations which can support and enable communication, including Talking Mats, interpreters, Makaton etc., should be considered. Where possible, materials should also be available in alternative formats such as easy read, large print, audio tape, Braille and use made of read aloud or equivalent software.

This should be considered at the planning stage of initial referral as it allows any obstacles to be identified at an early stage and action to be taken to allow progress.

Section 36 of the Act states that council officers visiting an adult believed to be at risk must:

- state the purpose of the visit
- produce evidence of their authorisation as a 'council officer'.

Section 8(2) of the Act states 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 not to be interviewed or can choose to answer some questions but refuse to answer others.

The Act gives Council Officers the power to interview the adult in question either at their home or at another place that may be more appropriate, such as a day centre, care home, or place of employment or education.

The Act gives the Council Officers the power to interview the adult in private. However, depending on the nature of the allegation it may be more appropriate to encourage family members, friends or care staff to be present if this will enable communication or support an adult who lacks confidence in talking to others.

As outlined above, the Act requires that other support for the adult is also considered, such as independent advocacy. Referral to Independent Advocacy will be routine for all adults progressing to investigation under the Act.

Where it is anticipated that there will be difficulties in interviewing an adult, an assessment order may be considered: see Applications for Protection Orders, below. In addition, where entry to premises is refused or a refusal is reasonably suspected, Section 37 of the Act allows the Council Officer to apply

for a warrant for entry as long as the Sheriff (or Justice of the Peace in urgent cases) can be satisfied that the granting of a warrant is the only means of ensuring entry.

Interviews with the adult at risk should take into account any communication issues, and aim to:

- gather information on the allegation (did the actions/event alleged take place as described in the referral and did the adult consent to whatever action/situation is alleged to have placed them at risk of harm)
- clarify their feelings and wishes about future action (does the adult consent to action being taken in relation to the alleged harm).

An important part of this process is to explain to the adult ways that social work may be able to support them or enable them to protect themselves, from arrangements including additional or alternative support to the obtaining of protection orders.

Lack of consent

Where an adult does not consent to be interviewed, Independent Advocacy may assist in sharing views and wishes work remains responsible for considering whether they are at risk of harm and what protective actions are required.

Although it will not be possible to engage with the adult to draw up a comprehensive protection plan, consideration should be given to holding a case conference and developing an action plan. This should consider how continuing support can be offered to the individual by the various agencies involved, how this will be monitored and how any further concerns should be dealt with. It should also include specific plans to revisit the current or future issues with the adult in order to ascertain whether they have changed their mind about discussing their situation.

Where an adult consents to be interviewed and discloses that they are at risk of harm but they are unwilling to take action to protect themselves or allow action to be taken on their behalf, the risks of their situation and the options available to them should be fully explored with them. A case conference should be held to allow multi-agency consideration of their circumstances and the development of as much of a protection plan as the adult will consent to.

Consideration should also be given to whether the adult is being “unduly pressurised.” If it is believed that the adult would be best protected by using one of the protective orders created by the Act, an application can be made to the Sheriff providing evidence of the undue pressure. The Sheriff can then, if satisfied, dispense with their consent. Such a situation needs full discussion at a multi-agency case conference attended by a representative of the legal department.

Note – taking action without consent

To do nothing or to promise confidentiality and then report the concern is not acceptable therefore staff should openly and honestly discuss with the adult the intention to report the information given and advise them of the action that will be taken next. The only exceptions are where this may place the adult at risk of further serious harm or undue pressure.



Where undue pressure is to be evidenced the practitioner should include in their recording how the development of the relationship has given rise to the person suspected of exerting undue pressure being in a position of confidence and trust.

Chapters 11-14 of the Code of Practice for the Act contain further information on undue pressure.

Gaining further information from other parties

A certain amount of information will have been gathered as part of the ASP inquiry stage, following the original referral. It may be agreed that additional information or further details should be sought from any stakeholder already contacted, or others who may know the adult. It may be appropriate to request short reports in some cases to clarify or summarise information provided.

Section 10 of the Act allows Council Officers to request and obtain copies of any relevant records to assist with an investigation. These may be health, financial or other records relating to the adult at risk. The records should be requested either in person during a visit, or else in writing, clearly stating that they will be used for enabling or assisting the Council to decide whether it needs to do anything in order to protect an adult at risk from harm.

If access to information held by Social Security Scotland, or its predecessor, the Department of Work and Pensions, is required, this should be requested using the form developed by the Scottish Government for this purpose.

A Council Officer may request health records and may examine them to determine that they are health records, but will refer further examination of them to a suitable health professional.

Section 49 of the Act creates an offence of obstruction if a person (without reasonable excuse) refuses or fails to comply with the request for access to records.

Medical examinations

In general, most adults will have access to a medical examination through their GP if they require treatment. If it appears that a physical or sexual crime may have been committed it is important that liaison takes place with the Police so that, if required, an examination is undertaken by a Police surgeon.

The Adult Support and Protection (Scotland) Act also provides for a medical examination to be requested by a Council Officer for the purpose of providing evidence of harm or assessing an adult's health needs. As in all cases, except where an adult lacks capacity, the adult must consent to the examination. NHS Greater Glasgow and Clyde have agreed a pro forma that can be used to request a medical examination under the Act if this cannot be arranged through the G.P. as part of their general care of their patient.

Refusal of 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. However, doctors are advised to respect the terms of any valid advance refusal, which they know about, or is drawn to their attention. Doctors are also advised to tell the patient what has been done, and why, as soon as the patient is sufficiently recovered to understand.

Where it is not possible to obtain the informed consent of the adult because they lack mental capacity or have difficulty communicating in order to provide consent, the council should check local records to ascertain whether the person has granted a welfare power of attorney with the relevant powers. Where no guardian or attorney has such powers, consideration may be given to whether it is appropriate to use the provisions in the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003.

Informing Other Agencies

Police involvement

Where it appears that a crime may have been committed, social work will inform the police. The police will take the decisions as to whether or not a criminal investigation is required. Social work will remain responsible for continuing to support the adult at risk and where required, liaison with the police should be maintained.

Harm involving a Care Inspectorate registered care service

If a registered care service is involved in an allegation harm, the Care Inspectorate should be informed. It is the responsibility of the registered manager to inform the Care Inspectorate of any adult protection allegation within their service, but in order to ensure consistency, the Contracts and Commissioning Section of the Health and Social Care Partnership should also be informed so that they may maintain an overview of concerns raised.

Where an allegation of harm is made relating to a registered service, the responsibility for undertaking adult protection inquiries and/or investigations remain with social work. A Council Officer from an appropriate team will take the lead in any inquiry but where it is agreed that an investigation is required, the Contract and Commissioning Section may be considered appropriate to provide the second worker in order that any issues relating to the overall quality of care and support provided can also be addressed.

Mental Welfare Commission

If a client is subject to a Guardianship Order, Community Treatment Order or Short Term Detention Certificate and a Banning Order has been applied for, then notification must be sent to both the Mental Welfare Commission and the Adult Protection Lead Officer.

Office of The Public Guardian

Where there is an allegation of financial abuse or mismanagement for an adult who is the subject of a Power of Attorney or order under the AWI Act, the Office of the Public Guardian should be informed. Where there is an allegation of financial abuse or mismanagement for an adult with an appointee, Social Security Scotland should be contacted, as above.

Contracts, Commissioning and Quality Assurance

Where there is an allegation of resident-on-resident harm then a notification must be given to the Contracts, Commissioning and Quality Assurance Team. A notification should also be sent if a referral relates to a Care Inspectorate registered service.

Harm to an adult who is the responsibility of another local authority

Where there is an allegation relating to an adult for whom another local authority has responsibility, there should be immediate contact made with that local authority to agree arrangements for investigation. The Act states that the responsible authority is that where the person is for the time being. However, if an adult has been placed in West Dunbartonshire by another authority it is good practice to keep them informed of any allegation of harm and the conduct of any investigation.

Recording the Investigation

Details of information gained through the investigation and the Council Officer's assessment of the situation should be recorded on the ASP Investigation form on CareFirst.

They should specifically detail their assessment of:

- the referral (whether it was factually correct)
- the risk (what harm the adult is at risk of, or may be at risk of, and how serious the level of risk may be) and
- what actions may be taken to protect the adult in question, including the adult's view of these actions.

It is essential that a risk assessment is completed. At this stage this may be the risk assessment element within the ASP Investigation form, or an appropriate risk assessment for the client group. In all cases any harm that the adult may be at risk of should be identified so that protective actions may then be considered for each of them. The manager responsible for the investigation will confirm what level of risk assessment is appropriate at this stage. The investigation form, including Council Officer's Report form on CareFirst and risk assessment must be completed before any case conference arranged.

Conclusion of the investigation

At the conclusion of the investigation the council officer, second worker if applicable, and manager will consider the next appropriate action. This will be recorded on the investigation form from the drop-down menu:

- Adult not at risk, concerns dealt with through care management
- Adult not at risk, adult supported by other services
- Adult not at risk, no further action
- Adult at risk, case conference arranged
- Adult at risk, other legislation to be used
- Adult no longer at risk due to action already taken

In all cases the information recorded in the Council Officers' report will demonstrate how the decision has been reached. Consideration should be given to whether a Case Discussion is required. This is a worker and agency meeting which does not include the service user or carer and does not replace the Case Conference.

3.13 The process - Case Conferences, Protection Plans and Review Case Conferences

Deciding to proceed to an Adult Support and Protection Case Conference

An Adult Protection Case Conference is a multi-disciplinary, inter-agency meeting which is called by Social Work to share information and make decisions about an adult at risk in cases where harm or neglect has occurred or is suspected.

In most cases an investigation carried out under ASP procedures will lead to a formal Case Conference. Where allegations cannot be substantiated or there is insufficient evidence, a Case Conference may still be convened, since it would provide the opportunity to carefully consider the situation and agree action still required in terms of risk management and responsibility for monitoring and review.

The reasons for any decision taken by Social Work not to proceed to a Case Conference will be shared with key people in other agencies.

Key staff from any other involved partner agency may however request that a Case Conference is convened if they disagree with the decision by Social Work not to hold such a meeting.

The Case Conference should normally take place within 15 working days of the referral. Where this is not possible (for example if an investigation is a protracted one) the Case Conference will then be convened within five working days from whenever the investigation is concluded.

A Case Conference will always be held where:

- allegations involve sexual harm
- there is a substantial level of risk
- more than one agency is required to draw up the Protection Plan.

The Case Conference will normally be Chaired by an HSCP officer with an appropriate level of seniority (Senior Social Worker or above) along with knowledge and experience of managing Social Work ASP interventions. It is good practice for the Chair to be independent of the investigation but in order to achieve agreed timescales it is acknowledged that this is not always possible.

It is recognised that other formal public protection mechanisms exist which contribute to the protection of adults at risk. Where relevant the HSCP officer will link with other service leads to avoid duplication and ensure coordination, clarity of responsibility and a consistent approach. Examples of this would include

- **Care Programme Approach** – multi-disciplinary meetings convened by a psychiatrist used to coordinate the care and protection of adults with a mental disorder (including those with a learning disability)
- **MAPPA** (multi-agency public protection arrangements) – multi-agency meetings to coordinate offender risk assessment and management
- **MARAC** (multi-agency risk assessment conference) – multi-agency meetings to coordinate risk assessment and management for victims of domestic abuse
- measures in relation to registered establishments taken by the **Care Inspectorate**
- investigations by the **Office of the Public Guardian** into allegations of financial harm.
- There may also be circumstances where it is felt beneficial to hold a joint adult and child protection conference.

The objectives of the Case Conference are to:

- consider the information gathered by the investigation
- exchange relevant information held by professionals and agencies involved
- to determine the level of risk to the adult at risk or others who may be at risk and the likelihood of the occurrence (or reoccurrence) of harm
- to identify areas of stress for the carer or relative of the individual, if applicable.

The decisions to be taken at the Case Conference will include:

- considering the availability of statutory powers to intervene and the appropriateness of their use, including any emergency measures required
- formulating a Protection Plan for the individual including measures to be taken and who is to be responsible for actions agreed
- nominating a Council Officer to co-ordinate the Protection Plan and ensure it is fully implemented
- considering the role of 'out of hours' services, including the Glasgow & Partners Emergency Social Work Service and NHS 'out of hours' services in contributing to a Protection Plan and responding to emergency situations

- taking appropriate steps to inform the adult at risk (and his/her carer or relatives if appropriate) of the outcome of the Case Conference, if they have not attended in person
- agreeing the supports and services required from agencies to protect the individual and minimise risk, including access to specialist resources
- determining the process of monitoring and review of the Protection Plan.
- Where there are capacity issues and intervention is being considered under the Adults with Incapacity Act (Scotland) 2000, this can be combined with the Adult Protection Case Conference into a single decision-making meeting. This is however a rare occurrence and it is more likely that the AWI case conference will follow on from the ASP case conference.
- Where legal intervention is proposed the Case Conference should determine who will be responsible for making the application to Court and establish a clear timescale within which this should be done. If the local authority is required to initiate such action the meeting will decide who is responsible for linking with the Council's Legal Services to progress this.

The Chair will follow a clear agenda for the Case Conference. The manager responsible for the investigation and the Council Officer will liaise with the social work senior who will Chair the meeting to decide who to invite and to ensure that written invitations are sent out as soon as possible. They will also consider any communication or other supports that would assist the adult's participation in the meeting.

Who will participate in a Case Conference?

The Case Conference provides an opportunity for a wider range of interested professionals and other agencies to contribute to decisions being taken as to how best to protect the adult at risk. However, for reasons of confidentiality and effectiveness the membership will be limited to those who have a 'need to know' and are likely to be able to make a significant contribution to proceedings.

It may be necessary to address different elements of the meeting within separate sections and to vary those attending for specific parts of the agenda. For example, it may be appropriate for a family member to be present for discussion about measures to protect the individual, but not during consideration of possible criminal proceedings or action against a staff member, where confidential information is likely to be disclosed.

Where at all possible, the venue for the Case Conference will be chosen so as to maximise the adult or carer's ability to attend and participate. Videoconferencing methods should also be considered and made available in order to maximise participation by all relevant individuals or agencies. MS Teams is the video-conferencing system currently used by Social Work to host multi-agency meetings.

The following people may be invited to attend all or part of the Case Conference:

- investigating Council Officer(s) and Second Worker(s)
- manager leading the investigation
- Mental Health Officer where the adult has a mental disorder
- other relevant social work staff
- GP
- other relevant health staff
- Police
- staff from relevant regulatory/inspection bodies
- care provider organisations where involved with the individual
- representatives from other authorities where the individual is a service user or other adults at risk
- the adult at risk

- independent advocacy worker
- legal proxy (attorney or guardian)
- carer or relative (provided not involved in the harmful behaviour and having regard to the wishes of the adult at risk)
- representative from Council Legal Services.

The adult at risk will be encouraged to attend at least part of the Case Conference and offered the opportunity to bring someone of their choice to support or represent their views. Every effort will be made to empower the individual to play as active a part in proceedings as possible, including use of interpreters and other aids to communication. The adult will not be required to confront or participate with the person alleged to be causing the harm within the Case Conference. Where the adult is not invited, or chooses not to attend, this will be specifically recorded in the case conference minutes, together with reasons for this.

Carers and others who might be involved in implementing a Protection Plan will be invited with the consent of the adult. Where the adult is unable to provide meaningful consent, the decision concerning attendance will be made by the person chairing the Case Conference.

The alleged perpetrator will not be invited to the Case Conference but, where it is deemed appropriate, will be invited to a separate meeting concerning actions to be taken in relation to them. If the alleged perpetrator is an adult at risk, a separate meeting should be used to address their needs.

If there are issues concerning the action or inactions of an external agency (or of staff within Social Work) a separate meeting addressing organisational, management and contractual matters will be convened.

The Chair may meet with the professionals involved before the adult and/or family members attend in order that there is clarity as to what information it is appropriate to share in their presence.

Where it is agreed that the Police should attend, the invitation to the case conference should be sent to the Adult Protection Referral Co-ordinator based in the Concerns Management Hub at Dumbarton Police Office. The invitation should include the name and address of the adult at risk, together with their date of birth, the nature of the concern and details of any other significant individuals, and should be emailed to the Referral Co-ordinator at least 7 days prior to the meeting taking place. The Referral Coordinator will ensure appropriate Police attendance and the provision of any report that may be relevant.

Any disagreement with the decision of the case conference or any element of the protection plan must be recorded in the minutes. However, any serious disagreement or dispute that cannot be resolved within the meeting will be reported in writing by the Chair to the Chief Social Work Officer.

How the case conference is recorded and how the record is shared

The case conference will be minuted and the Chair is responsible for ensuring the accuracy of the final draft of the minute to be circulated to relevant individuals in attendance and agencies on a 'need to know' basis. The minutes should be typed onto the ASP Initial Case Conference form on CareFirst and authorised by the Senior who Chaired the meeting. The minutes will be distributed to all those present and any other agreed person within 10 working days of the meeting.

Where it is deemed inappropriate, for reasons of confidentiality, to give a copy of the minute to a particular individual or agency, consideration will be given to providing a summary version or a copy of the Protection Plan.

Care will need to be exercised in sending the minute to the adult at risk where other individuals (including the person alleged to be causing harm) are likely to be able to access it, particularly where the adult lacks the capacity to safeguard the information.

Written reports provided by Social Work or other agencies will not be circulated with the minute unless this has been specifically agreed at the meeting.

The minute of the Case Conference will include, as a minimum:

- Attendance
- essential facts
- a copy of the Protection Plan, where relevant, including the allocation of roles and responsibilities
- decisions made regarding statutory intervention with reasons as to why pursued or not pursued
- any other decisions taken
- identity of lead worker
- note of any dissent from decisions
- date of Review Case Conference (where relevant).

Where the situation is complex, the timescales involved may mean that the case conference attendees agree that they lack adequate information to fully understand a situation or develop a sufficient protection plan. In such circumstances the chair may request a fuller risk assessment using form AP2, or other actions as appropriate, with a time set for the next case conference as soon as reasonably practicable and in any occasion considerably under the 3 months maximum timeframe.

A Review Case Conference **must** also be scheduled take place to review the agreed Protection Plan and agree ongoing intervention under ASP, or to conclude the ASP process.

Developing and Agreeing a Protection Plan

A protection plan is a written plan of how best to offer protection to an adult at risk. When developed at a Case Conference the agreement of all parties to it should be recorded and any disagreements specifically noted. The protection plan should include:

- Specific actions or services to be provided and by whom
- The identification of the lead social work professional
- The identification of named lead staff from other agencies involved in the plan
- Regular patterns of information sharing between all those involved in the plan
- Specific methods of alerting the social work lead in case of ongoing/escalating concerns
- Contingency plan in case of a breakdown in agreed arrangements where this could lead to a risk of serious harm
- Review date for the protection plan i.e. the convening of a Review Case Conference

Depending on the level and/or complexity of the risks involved it may be appropriate to consider the specific adult support and protection risk assessment (AP2) at this stage if it has not already been completed.

Depending on the level and/or complexity of the case it may be agreed that regular core group meetings should take place between Case Conference, and review Case Conference dates in order to ensure that

the elements of the protection plan are in place and working as anticipated. The membership of any core group will be agreed at the Case Conference and the frequency of meetings specified.

The details of the protection plan will be fully explained to the adult at the Case Conference. Where the adult does not attend the Case Conference the social work lead will meet with the adult and potentially any family members or carers involved as soon as possible after the Case Conference to explain the decisions of the Case Conference and any protection plan put in place.

If the adult has been confirmed to be considered as an Adult at Risk, the ASP Service – Monitor/Review event should be opened.

An Adult Protection Case Conference must be held if

information from inquiries/investigation indicates a level of serious harm and/or multi agency involvement which may require consideration of more restrictive legal measures i.e. ASP Protection Orders, or consideration of other statutory intervention. If other legislation is to be considered for example Adults with Incapacity (Scotland) Act 2000 remember a single Case Conference can cover an AWI case discussion.

Other factors that may warrant the need for an Adult Protection Case Conference are where there are difficulties accessing the adult, there is a risk of harm being repeated against the adult, other adults may also be at risks and this cannot be managed within the care management arrangements.



Implementing the Protection Plan – Core Group Meetings

The Case Conference will have agreed how the protection plan is to be implemented. This will, in most cases, include the establishment of a Core Group of staff who will undertake the agreed protection work and will meet regularly, outside the Case Conference, to oversee delivery of the protection activity operationally. Its aim is to monitor and deal with any emerging risks or problems implementing the Protection Plan.

The Core Group will consist of all the people who are involved in the Protection Plan on a day-to-day basis, including the adult and carer. It will normally meet not more than two weeks after the Case Conference, and monthly thereafter and it will be Chaired by the social worker leading the delivery of the protection plan.

Should significant addition risks be identified as arising for the adult the Chair of the Core Group should ask for an urgent recall of the Case Conference, via the original Case Conference Chair, to allow for wider discussion of the changing circumstances and revisions to the Protection Plan is required.

How the Protection Plan is monitored - Review Case Conferences

The Protection Plan was developed and agreed (with any significant dissents recorded) at the Case Conference. It will be formally reviewed through the convening of Review Case Conferences. These will involve those professionals and agencies who attended the original Case Conference, but membership may need to be updated to reflect those currently working with the adult and to maximise the appropriate participation of the adult and his/her representatives and family.

The first Review Case Conference will be held within three months of the initial Adult Protection Case Conference.

The frequency of subsequent Reviews will be decided at the meeting, but these should be at not less than six-monthly intervals whilst the Protection Plan is in force.

The purpose of the Review Case Conference is to:

- summarise the work undertaken since the previous meeting
- establish the current level of risk to the adult and whether the adult remains an adult at risk of harm
- to review the effectiveness of the Protection Plan and update and amend as required
- ensure that action agreed under the Protection Plan has taken place and if not the reasons for this
- confirm any change in lead worker
- ensure wherever possible the full participation of the adult at risk in terms of expression (or representation) of their views
- close the Protection Plan when the adult is assessed as no longer being an adult at risk of harm.

Where the adult is not deemed an adult at risk, but the risks remain high, the Case Conference or Review meeting may decide to manage these risks under ongoing local care management arrangements.

Section 4 Specific Scenarios and Supporting Guidance

4.1 Specific Scenarios - Repeat Referrals

Since the Act was implemented, it has become clear that some adults may experience a pattern of incidents which give rise to concerns that they may be an adult at risk of harm, but after inquiries are undertaken by Social Work, no single incident is thought sufficient to trigger formal multi-agency information sharing and further intervention under the Adult Support and Protection Act. Repeat referrals about an individual where further action is not taken under ASP frequently concern incidents of self-harm/neglect, often associated with alcohol and drug misuse. Such incidents may be reported to Social Work by the Police via an adult at risk or adult concern report. Immediate action to safeguard their health and safety may be taken by NHS acute services, and Health staff are also prompted to consider ASP when reporting such incidents on the NHS DATIX system. Adults with dementia living in 24-hour care settings also often find themselves to be the subject of repeat referrals, for example when the stress and distress they are experiencing results in their behaviour harming another resident.

West Dunbartonshire has a multi-agency protocol in place to manage repeat referrals and ensure that the need for ongoing support and protection is considered where a pattern of harm emerges.

This is now complemented by Police Scotland's escalation protocol.

- Agencies must record all incidents of concern and alert Social Work where 3 incidents occur in any six-month period
- Police Scotland will monitor iVPD reports about individual adults and implement their escalation protocol when their repeat criteria are triggered
- Social Work will monitor ASP and Adult Concern reports and flag up when 3 reports have been received in any six-month period
- The lead HSCP officer will convene a multi-agency ASP case conference to share information, unless they assess such a meeting is not required. They might come to this decision where, for example, other intervention pathways have already been implemented.

4.2 Specific Scenarios - Hate Crime and Adults at Risk

In Scotland, the law currently recognises hate crimes as involving behaviour which is both criminal and rooted in prejudice. The [Hate Crime and Public Order \(Scotland\) Act 2021](#) maintains and consolidates protections in law against offences aggravated by prejudice against:

- disability
- race
- religion
- sexual orientation
- transgender identity.
- and, importantly from an ASP perspective, adds age as a new characteristic.

The law was updated following an independent review which recognised the impact and harm caused by physical, verbal or online hate crime, and that those impacts included people being scared to leave their own homes, avoid public places and significantly altering how they live their lives.

All partner agencies making or receiving ASP referrals must be mindful to consider whether or not a hate crime has been committed, and where this is the case, the Police should be alerted.

Disabled and older people, including adults at risk of harm, can, however, also experience additional barriers to reporting crime, and accessing justice. To counter this, a series of Third Party Reporting Centres was set up across Scotland. This allows the victim or witness of a hate crime to report the crime to staff working at the Third Party Reporting Centre rather than at a Police station. Third Party Reporting Centres include publicly accessible sites such as the Community Hubs, housing and social care premises. Hate crime can also be reported via an [electronic reporting form](#) accessed from Police Scotland's website.

All staff taking third party reports will need to bear in mind that the victim may be an adult at risk of harm, and where this is the case, an Adult Protection referral should also be made.

4.3 Specific Scenarios - Financial Crime and Adults at Risk

All too often, adults at risk of harm are targeted by criminals such as the bogus workman who seek to exploit their increased vulnerability for financial gain. Such scammers will also make contact with their victims through email or social media.

Where any partner suspects a bogus caller is operating in West Dunbartonshire, this information should be shared with other agencies through an email cascade system. The Police Concern Hub would share this information through the vulnerable persons system. Reports can be made to any of the following: Police Scotland, Trading Standards, the Contact Centre or Social Work. As well as face to face incidents, agencies should also report where an adult at risk has experienced cold calling by telephone and internet scams. A national [Neighbourhood Alert](#) scheme is in operation which enables wider real-time information sharing about suspected bogus caller activity across Scotland.

4.4 Specific Scenarios - Gender-Based Violence, Domestic Abuse and Forced Marriage

Referrals involving violence towards an identified adult at risk of harm within the adult's family and intimate relationships will normally be dealt with under these Multi-Agency ASP procedures.

Depending on the circumstances, an adult affected by gender-based violence may also benefit from support and protection available through other specialist services, legal mechanisms or via the criminal courts. These options should be considered, particularly where they may offer a less restrictive means of offering protection to the adult.

Domestic abuse

Agencies should bear in mind that:

- Where children are affected by domestic abuse, there are automatic grounds for referral by Social Work to the Children's Reporter. Additionally, there are existing agreements between the Police and Social Work within West Dunbartonshire to screen all domestic abuse incidents where children are affected

Where an adult at risk of harm is involved in a domestic abuse incident, separate multi-agency safeguarding measures agreed through MARAC (Multi-agency risk assessment conferences) may

be effectively employed to manage or reduce the risks to the adult. MARAC aims to provide a forum for core agencies, including ASP services, to share information about victims of domestic abuse and gender-based violence who are assessed as being at a high risk of harm. Agencies should make themselves aware of MARAC referral procedures and understand the referral criteria. MARAC will only accept referrals where the victim is in a relationship with the perpetrator or the risk is in relation to a previous intimate relationship, i.e. not where the risk is from another family member. Although MARAC is held regularly, agencies should avoid making assumptions that the case requires first to be heard at MARAC in case this delays action to protect the adult.

Domestic abuse and other incidents of gender-based crime can be reported to the Police on an [electronic reporting form](#).

Forced Marriage

A specific law to protect victims of Forced Marriage was implemented in Scotland in 2011. To extend protection to those at risk, forcing someone into marriage was made a criminal offence in Scotland in September 2014. The 2011 Act aims to offer protection to both those at risk of being forced into marriage, and those who have already been forced into marriage. It is seen as a form of gender-based violence since women are disproportionately affected. Forced marriage is understood to be more likely to affect particular communities and minorities within our society, and adults with disabilities are thought to constitute a high-risk group. As with all forms of gender-based violence, agencies need to consider carefully information-sharing with the victim's family and between themselves.

Those agencies involved in supporting victims of gender-based violence will need to be familiar with these Multi-Agency ASP procedures so they have a clear understanding about minimum trigger points where consideration of more formal action under ASP procedures is required. Specific consideration should always be given to whether a victim who has a diagnosed health condition or disability is also an adult at risk of harm and may require additional protective measures to assist them to safety and recovery.

The Police (and any other agency coming into contact with a gender-based violence situation involving an adult at risk) should make a referral to Social Work in all cases where it is believed that the adult is:

- suffering or is at risk of suffering significant harm
- in need of support services

You may only have one chance to speak to a potential victim of forced marriage and therefore, only one chance to save a life

- See the victim on her own – even if she is accompanied by others
- See her immediately in a secure and private place where you will not be overheard
- Reassure her about confidentiality (in line with your organisations policy) and explain that you will not give information to her family/friends or community
- Accept what she says
- Explain all the options to her and their possible outcomes
- Recognise and respect her wishes
- Assess the risk she faces by conducting an appropriate and thorough risk assessment
- Contact, as soon as possible, the lead worker responsible for forced marriage (if she is under 16, refer to Child Protection inter-agency guidance; if she is an adult at risk, discuss this with your adult support and protection lead officer and refer to inter-agency guidelines)

- Agree a way to contact her safely (for example agree a code word)
- Obtain full details to pass on to the lead worker and record these safely
- Give her (or help her memorise) your contact details and/or those of a support agency such as Women's Aid
- Consider the need for immediate Police involvement, protection and placement away from the family and arrange this if necessary; this includes any action to stop her being removed from the UK
- Do everything you can to keep her safe
- Get immediate advice if you are not sure what to do.

DO NOT

- Send her away or let her leave without a safety plan and follow up arrangements
- Approach her friends/family or community unless she asks you to do so
- Approach community leaders for advice
- Share information with anyone without her express consent (unless there is a risk of immediate harm to her or any children or she lacks capacity to give consent or she is unable to give informed consent)
- Attempt to mediate with the family

Further advice is available from the UK Forced Marriage Unit www.fco.gov.uk/forcedmarriage

4.5 Specific Scenarios - Young People Aged 16 and 17

West Dunbartonshire partners believes that all people aged under 18 should be treated as children on first contact, in line with the UN Convention on the Rights of the Child. This means that all concerns about 16 and 17-year-olds should be directed to Children's Social Work in the first instance. Where there are concerns that 16- and 17-year-olds may be at risk of harm, the Social Work screening process will involve an assessment of which legislative framework is best placed to support and protect the young person. Key considerations include the young person's history, capacity, issues and needs. Where Children's Social Work consider that the individual may be better supported and protected via the ASP legislative framework and Adult Social Work, they will liaise with their adult counterparts to agree responsibilities for inquiries and any subsequent support required.

4.6 Specific Scenarios - Trauma and Historical Abuse

The Scottish Government's Survivor Scotland programme was initially launched twenty years ago, and ten years ago led to the establishment of the [Scottish Child Abuse Inquiry \(SCAI\)](#). The SCAI has since highlighted the extent of abuse experienced by many of Scotland's children when they were in public care, often at the hands of those who were meant to care for them. The impact of childhood trauma and abuse can create a life-long struggle for survivors and result in ongoing physical and mental health issues, alcohol and drug misuse, and a lack of trust in those in authority or services which can make it more difficult for survivors to accept their rights to being heard, support and recovery. Another branch of the Survivor Scotland programme led to the introduction of the [National Trauma Transformation Programme](#) which aims to support trauma-informed and responsive systems, organisations and workforces in Scotland.

Adult survivors who have embarked on their recovery journey may find the courage to disclose information to workers about the abuse they suffered and about their abuser(s). Although survivors may only want to be heard and not wish for any action to be taken, workers should be alert to any present day risks they face, or any risks to others, particularly children. Psychological consequences of repeat childhood trauma and domestic abuse can include 'learned helplessness' and other features which make it more difficult for affected survivors to protect themselves from present-day harm. Where this is known, workers should always take an adult's history of trauma into account in considering their ability to safeguard, in line with the Codes of Practice.

4.7 Specific Scenarios - Going Missing

The National Missing Person's Framework was launched in May 2017. Research supporting the development of the framework highlighted the high numbers of people who go missing who are more vulnerable to harm and exploitation because they have a mental health issue or suffer from dementia. Although it must be remembered that sometimes people go missing to escape harm and exploitation, the framework encourages all agencies currently supporting people who are at high risk of going missing to factor this risk into assessments and support and protection plans, and to share relevant information swiftly with the Police and other agencies if and when someone does go missing.

Older adults with dementia are particularly vulnerable should they go missing. To assist the police to trace and find older adults who go missing as quickly as possible, carers and support staff are encouraged to make use of the Herbert Protocol. The protocol consists of a form that contains vital information about the person at risk that can be passed to the police at the initial point the person is reported missing. The existence of this information will save police critical time in establishing the history of the missing person and their potential location. Carers should be directed to this page where they can download the [Herbert Protocol Form](#). When they have completed the form, carers should notify argyldunbartonshirecommunityengagementteam@scotland.police.uk and store the form prominently in the adult's home or care setting so as easily available to police when required.

4.8 Specific Scenarios - Human Trafficking and Exploitation (Modern Slavery)

The Human Trafficking and Exploitation (Scotland) Act 2015 seeks to support and protect all people who have been trafficked within and to Scotland, and/or exploited for their labour. It is the equivalent of the Modern Slavery legislation elsewhere in the UK. The Act will require staff employed by public bodies to notify the Police if they suspect an adult has been trafficked. Regardless of their nationality or immigration status, any individual who is a victim of trafficking may be traumatised and additionally vulnerable due to a disability or mental health issue. Any agencies supporting trafficked adults should always bear in mind that the adult may also be an adult at risk of harm. Separate arrangements are in place to support trafficked children, who are defined as being under the age of 18. These involve standard child protection processes including an Interagency Referral Discussion (IRD).

4.9 Specific Scenarios – People with Problematic Alcohol/Substance Use

Definition: A person with problematic alcohol/substance use is defined as any person who experiences social, psychological, physical or legal problems related to intoxication and/or regular excessive consumption and/or dependence as a consequence of his/her own use of drugs or other chemical substances (Advisory Council on the Misuse of Drugs (ACMD), 1982).

People have the right to make choices and decisions about their lives, including the use of alcohol and drugs, even if it means choosing to remain in situations or indulge in behaviours which others consider inappropriate.

A person who has **temporary** problematic alcohol or substance use (including intoxication) with no additional vulnerability such as illness or disability would not be considered an adult at risk in terms of the Act.

Adults affected by problematic alcohol/substance use should only be considered under Adult Protection when they have additional co-existing illness, disability or frailty that means they would meet the criteria of an adult at risk of harm.

Note – Alcohol/substance use and ASP

Examples of a person with problematic alcohol/substance use, who may be considered an adult at risk under the Act, may include someone with acquired alcohol related brain damage, cognitive impairment or physical deterioration. These conditions may impact on the adult's usual ability to safeguard their health, welfare, property or finances, which may leave them open to undue influence or exploitation from others or result in serious neglect, (including self -neglect) negatively affecting their health, finances or property which may include security of their tenancy.

Where an adult has a co-existing mental illness or physical conditions, these can continue to deteriorate or be exacerbated by ongoing alcohol/drug use. It is important, therefore, to make fresh inquiries when a referral is made, as circumstances may be subject to rapid change/deterioration.



4.10 Supporting Guidance - The ASP Thresholds Framework

An ASP Thresholds Framework has been developed and is attached at Appendix 3. It is designed to support partner agencies to adopt common referral thresholds and consistency in decision-making.

4.11 Supporting Guidance - Large Scale Investigations

When an investigation concerns a group of adults at risk, whether in a care setting or through shared involvement with one or more persons alleged to be causing harm, special care and planning is required.

The possibility of more than one adult (or a number of adults) having been subject to harm must always be considered. Similarly, there may be occasions where harm has been carried out by more than one person. This should always be reflected both in searching for information on client databases and making enquiries across agencies.

Such investigations will frequently involve a number of agencies. It is therefore vital that all aspects of the investigation are carefully planned and coordinated and that the respective roles and responsibilities of agencies and individual professionals are made explicit.

The Code of Practice at Chapter 8 recognises that many areas have developed and agreed local multi-agency procedures to support agencies to undertake large scale investigations. [Detailed](#)

[arrangements to manage large scale investigations in West Dunbartonshire](#) are set out in a formal protocol.

Key elements of any ASP large scale investigation include:

- it is led by Social Work
- it is centrally coordinated by the Adult Protection Lead Officer
- it is supported by senior managers from all relevant agencies
- it will involve regulatory/inspection bodies (e.g. Care Inspectorate, Healthcare Improvement Scotland, Mental Welfare Commission)
- it will be underpinned by a shared commitment to cooperate and provide resources for the investigation
- there will be ongoing attention to the support and protection needs of individual adults at risk
- there will be consideration of the impact on adults, carers, staff and communities
- there will be commitment to share any learning to improve practice and service delivery.

4.12 Supporting Guidance - Duty of Candour/ Ill-Treatment and Wilful Neglect

Under the duty of candour introduced by the Health (Nicotine, Tobacco & Care) Act 2016, all agencies providing health and social care services are required to disclose significant adverse incidents to the individual affected or their family. Agencies also have to keep a record of such disclosures and publish this on an annual basis.

As well as introducing the duty of candour, the Health (Nicotine, Tobacco & Care) Act 2016 also introduced a new offence of ill-treatment and wilful neglect. An offence of this nature was previously included in the Mental Health (Care and Treatment) Act 2003 with specific application to victims who have a mental disorder and experience wilful neglect or ill-treatment by staff in the course of receiving care and treatment. This offence extends its scope to include all adults receiving health and social care services.

All incidents affecting service users which occur in the course of delivering care will continue to be notified to the Care Inspectorate by registered services, and to the HSCP's contract management section by commissioned services. Where the individual affected is, or is believed to be, an adult at risk of harm, staff should also make an ASP referral to Social Work.

4.13 Supporting Guidance - Support for Vulnerable Witnesses

The Vulnerable Witnesses (Scotland) Act 2004 introduced 'special measures' to support child and vulnerable adult witnesses to give evidence in criminal proceedings.

The definition of 'vulnerable adult' used in this Act includes those who have a mental disorder (as defined in the Mental Health (Care & Treatment) (Scotland) Act 2003 as well as those who are so afraid or distressed to give evidence that their evidence will be adversely affected. It may include any adult at risk of harm, The factors listed within the guidance in deciding if special measures are required include:

- mental disorder (including learning disability)
- communication difficulties
- behavioural indicators

- age and maturity (including old age and frailty) as well as more general factors which may apply in adult protection cases, including:
 - risk of intimidation
 - ‘elder abuse’
 - sexual offences or violence
 - domestic violence
 - any power imbalance between the witness and the accused
 - where the accused is a significant family member
 - where the witness was dependent on the accused.

The Victims and Witnesses (Scotland) Act (2014) further allows special measures to be applied automatically to adult witnesses who are seen as vulnerable due to the nature of the crime, e.g. domestic abuse, sexual crime, stalking and human trafficking.

- The special measures for which adult witnesses may be eligible are:
 - live television link from another part of the Court building or place out with that building
 - prior statements as evidence in chief (in criminal cases only)
 - taking statements on commission
 - use of a screen
 - having a ‘supporter’ present when giving evidence.
 - or combinations of the above.

Under the Criminal Justice (Scotland) Act 2016, local authorities have become responsible for providing Appropriate Adult services to support victims, witnesses, suspects and accused persons who are to be interviewed in relation to criminal matters and are deemed more vulnerable on account of a mental disorder. [The statutory scheme](#) was introduced on 10 January 2020, and builds on services provided to the police on a non-statutory basis over the past thirty years. It is the responsibility of the Police or other investigating agency to identify that the victim, witness, suspect or accused requires an Appropriate Adult and request the local authority to provide one. West Dunbartonshire Council has commissioned Glasgow & Partners Emergency Social Work Services to provide Appropriate Adult services on their behalf, except during an ASP Large Scale Investigation.

Note – Appropriate Adult Responsibilities



The Police have responsibility for ensuring that any person suspected to have a mental illness, learning disability, personality disorder or acquired brain injury has access to an Appropriate Adult whether they are an actual or potential victim/witness and/or the person suspected of an actual or potential offence.

4.14 Supporting Guidance - Cross Boundary and Cross Border Referrals

The Adult Support and Protection (Scotland) Act 2007 designates the local authority where the person is located at the time of an incident as the lead Council for the management of ASP concerns. If the care and support of an ‘adult at risk’ placed in West Dunbartonshire is usually the responsibility of another Council, that Council should be advised of the allegation at the earliest opportunity to allow consideration of any protective action which may be necessary. West Dunbartonshire, as host Council will retain responsibility for any inquiry, but may require the allocated worker from the placing Council to become involved as appropriate to the circumstances.

This activity does not indicate acceptance of an individual as an ordinary resident of West Dunbartonshire.

When a known 'adult at risk of harm' transfers between local authority areas, Social Work has specific procedures to support this to happen safely and effectively. This involves ongoing liaison between the responsible local authorities, as well as multi-agency meetings prior to and following the adult's transfer. Social Work Scotland has developed a set of principles to support effective case transfers which may be referred to in the event of a dispute. Notwithstanding such a situation, West Dunbartonshire's priority will always be the ongoing support, and protection needs of the adult at risk.

The Adult Support and Protection (Scotland) Act 2007 is only effective within Scotland. Where an adult at risk has been placed out with Scotland, or a local authority out with Scotland has placed an adult in West Dunbartonshire, negotiation with the local authority concerned will be required to establish a clear process consistent with the requirements of the local authorities involved.

4.15 Supporting Guidance - Resolution of Operational Disputes and Practice Concerns

The primary purpose of these multi-agency procedures is to minimise the potential for disputes between agencies by clarifying roles and responsibilities and setting out a clear operational process.

The Chair of the Case Conference holds ultimate responsibility for decision making within the Adult Protection Case Conference and subsequent Review Case Conferences.

However, it is recognised that occasionally there will be situations that cannot be satisfactorily resolved through discussion between practitioners, including

- concerns from one agency about the practice standards of one or more practitioners from another agency either relating to an individual case or more generally
- disagreement as to the appropriate action or decisions to be taken in a particular case in relation to the safeguarding of an adult at risk.

Wherever possible such disputes should be handled as near to operational/ professional level as possible and initially via discussion by means of a formal, minuted meeting between first-line managers, escalating to more senior local managers. Further advice may be sought from the relevant Public Protection lead within each organisation.

If the matter cannot be resolved in this way, a meeting involving a senior manager from each agency should be convened. This is likely to be the case where either more general concerns about practice or procedure have been raised (with implications beyond an individual case), or there are allegations of unprofessional or negligent practice.

4.16 Supporting Guidance - Learning Reviews

Joint multi-agency review of significant incidents and cases is an important way to identify and improve on inter-agency practice. Such review allows interagency guidance and agreed ways of working to be evaluated and allows areas requiring new procedures and protocols to be identified.

- The purpose of a Learning Review for an adult at risk of harm is to:
- identify learning from the particular case which may improve single and interagency working and so provide better safeguards for other adults at risk of harm
- agree an action plan to ensure that any improvements recommended are carried out and incorporated into training programmes, procedures and guidance.

It is important to state what a Learning Review is not: it is not an inquiry following the death or serious injury of an adult at risk where culpability may be established.

The Adult Protection Committee should always consider convening a Learning Review when an adult at risk of harm dies (including death by suicide) and

- harm or neglect is known or suspected to have been a factor in the death A Learning Review should also be considered where the adult at risk of harm has sustained any of the following:
 - a life-threatening injury through deliberate harm or neglect
 - serious sexual harm
 - serious or permanent impairment of development through harm or neglect and
 - the case raises concerns about the way professionals and agencies worked together to safeguard the adult at risk, for example in
 - recognising harmful behaviour
 - sharing information
 - deciding on and/or taking appropriate action to protect the adult.

Individual agencies may themselves conduct a formal case review, for example through the NHS's Serious Adverse Event Review (SAER) process or other internal management review, independent of a Learning Review. Such reviews may inform a subsequent Learning Review should one take place.

The Adult Protection Committee has agreed a multi-agency protocol for conducting Learning Reviews in West Dunbartonshire, and this is available on the [website](#). The Learning Review protocol is based on [national guidance](#) published in 2022 and includes a requirement to notify the Care Inspectorate.

4.17 Supporting Guidance - Audit and Self-Evaluation

Agencies providing adult support and protection services will have their own processes and systems in place to monitor and evaluate the delivery of these services against local and national outcomes, standards and quality indicators. There is also an expectation that all agencies will collaborate in multi-agency audit and self-evaluation of inter-agency practice overseen by the Adult Protection Committee.

Multi-agency self-evaluation comprises key components including casefile audit which involves scrutiny of records held by relevant agencies which participated in the adult protection investigation or protection plan, and consultation with service users, carers and other stakeholders about the efficacy of local adult protection services and partnership relationships and procedures.

Multi-agency self-evaluation of Adult Support and Protection activity in West Dunbartonshire is informed by Hogg and May's Resource Handbook, published by the Scottish Government in 2011, and undertaken on a cyclical basis. The Adult Protection Committee oversees the planning, management and reporting of the self-evaluation exercise. All involved agencies should provide

appropriately experienced and trained practitioners to participate in multiagency casefile audits. The results of such audits and self-evaluation activity will inform single and multi-agency action or improvement plans overseen by the Adult Protection Committee. They will also be reported through local governance structures and biennially to the Scottish Government.

Appendix 2 West of Scotland Adult Protection Referral Form

ADULT AT RISK DETAILS (please PRINT details, thank you)

Name	
DOB	
Home address	
Post code	
Telephone number	
Current whereabouts	
Postcode	
Telephone number	
Gender	
Ethic origin	
Religion	
Communication Needs <i>(please provide details including communication aids by the adult and specify first language if not English)</i>	
GP name/address	

REFERRER DETAILS (please PRINT details, thank you)

Name	
Designation	
Agency	
Direct dial telephone number	
Email	
Relationship to adult being referred	
Signature	
Date	

Is it suspected that a crime has been committed and have police been informed?

(Include date, time, known action taken etc.)

DETAILS OF CONCERN (please PRINT details, thank you)

1. In your opinion is the adult able to safeguard their own wellbeing, property, rights or other interests?
(If no, please state reason)

2. In your opinion is the adult at risk of harm? (If yes, please state reason)

3. In your opinion is the adult affected by disability, mental disorder, illness or physical or mental infirmity
(if yes, please specify)

Give details of harm (suspected / witnessed / disclosed / reported). Dates, protective actions taken include details of any previous concerns. (Please use separate sheet if required)

Have you (or any other person) told the adult that this information will be shared with social work or other relevant agencies

Yes		No		If No, please state reasons
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DETAILS OF PERSON SUSPECTED OF CAUSING HARM (If known)

(please PRINT details, thank you)

Name

Relationship to adult

Address

Telephone number

DETAILS OF MAIN CARER / RELATIVE / POA / GUARDIAN

(Please PRINT details, thank you)

Name

Relationship to adult

Address

Telephone number

Appendix 3 West Dunbartonshire Adult Protection Committee Thresholds guidance and framework for providers and other partners

Introduction

This guidance is designed to support all providers to make consistent, appropriate decisions about which incidents occurring in the care setting should be referred to Social Work under Adult Support and Protection procedures. It does not cover all situations which may arise, and if in doubt you should always contact Adult Social Work to discuss your concerns.

The Threshold matrix sets out different types and patterns of harmful behaviour in terms of the level of risk they pose to the service user. The level of risk then determines the level of reporting and response. As a general rule, incident types and patterns categorised as presenting a lower level of risk to service users can be dealt with by the provider and reported to the Care Inspectorate and or the SW care manager or Care Home Support Team. IF AND WHEN the level of risk is raised, a referral should also be made to Social Work under Adult Support and Protection procedures. Finally, IF AND WHEN the service user has experienced significant harm and criminality is possible, or there are critical public health infection concerns, a report must additionally be made to the Police.

Regardless of how they are responded to, all incidents must be properly logged by providers to enable patterns of concern to be identified and responded to appropriately. Providers are encouraged to refer to the Early Indicators framework to identify and analyse potentially harmful institutional behaviours at an early stage and prevent harm escalating.

Judgement must be applied to the use of the threshold guidance – context is critically important and areas that are categorised as lower level risk may have significantly more impact when viewed cumulatively, or in the context of the adult's wellbeing and living conditions. The framework is only guidance.

Level of Intervention	Aware (Risk = Lower Level)	Alert (Risk = Serious)	Alarm (Risk = Very High)
Intervene via	Internal processes (disciplinary/training/ etc) Care management processes	Adult Support and Protection Procedures If referral follows repeat incidents of the same type of harm, ensure that SW advised of all previous incidents. A third incident affecting the same service user in any six month period must be reported, as must a third incident of the same type of harm affecting any resident in a 24 hour care setting in any three month period.	Criminal investigation
Refer to	The Care Inspectorate AND SW Care Manager (phone ??)	Adult SW Duty Team phone ?? adultprotection@eastdunbarton.gov.uk Also consider referral to OPG where POA/Guardian involved in harm, Fire and Rescue or Environmental Health where environment is unsafe.	Police/Emergency Services Also make ASP referral to SW

Type of Harm	Level of Risk				
	Lower Level	Moderate	Serious	Very High	
Physical	Low Carer/staff error causing no/little harm – e.g. skin friction mark due to ill-fitting hoist sling Minor events which meet incident reporting criteria	Inexplicable light marking found on one occasion	Significant Isolated or multiple service user on service user incident/ physical altercation Inexplicable marking or lesions, cuts or grip marks on a repeat basis Witnessed accidental injury leading to hospital admission/medical treatment	Substantial Inappropriate restraint (NB Please remember that inappropriate restraint could constitute an assault by a carer/staff member – consult with the Police if in any doubt) Withholding of food, drinks or aids to independence Inexplicable fractures/ injuries	Critical Withholding of food or drink resulting in irreversible damage or death Assault by carer/family, staff member Serious assault resulting injury, permanent disfigurement, endangerment of life, death

Trips and falls	<p>Isolated incident where no significant harm occurs and</p> <ol style="list-style-type: none"> 1. A Care Plan is in place 2. Action is being taken to minimise further risk 3. Other relevant professionals have been notified 4. There has been a full discussion with the adult, their family or proxy 5. There are no other indicators of harm or neglect. 6. The provider has a system in place to track all such incidents 	<p>Multiple isolated incidents where no significant harm has occurred</p>	<p>Isolated or multiple incident(s) resulting in injury requiring a GP or attendance at hospital</p> <p>Emphasis placed on whether:</p> <ol style="list-style-type: none"> 1. The Care Plan has not been fully implemented 2. It is not clear that professional advice or support has been sought at the appropriate time. e.g. Falls Prevention Service <p>Unwitnessed events/ suspected falls resulting in injury</p>	<p>Any fall where there is suspected harm or neglect by a carer/ staff member or other person or a failure to follow relevant care plans, policies or procedures</p>	<p>Any fall resulting in significant injury or death where there is suspected harm or neglect by a carer/ staff member or other person or a failure to follow relevant care plans, policies or procedures</p>
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Type of Harm	Level of Risk			
	Lower Level	Serious	Very High	
	Low	Moderate	Significant	Substantial
Pressure Ulcers	<p>Pressure damage with no evidence of neglect OR failure to provide adequate care or pressure relieving equipment=</p> <p>Person has capacity and makes an informed decision to decline treatment</p> <p>A pressure ulcer develops</p>	<p>Pressure damage that has occurred as a result of a sudden and rapid onset and/or deterioration of skin integrity</p> <p>There been a recent change in medical condition e.g. skin or wound infection, other infection, pyrexia, anaemia, end of life care that could have contributed to a sudden deterioration of skin condition</p> <p>Reasonable steps been taken to prevent skin damage. The level of damage to the skin is disproportionate to the person's risk status for skin damage. For example, the person with a low risk of skin damage has a pressure ulcer</p>	<p>Person not risk assessed with regards to pressure ulcers risk and management and harm occurs</p> <p>Failure to provide suitable pressure relieving equipment and harm occurs</p> <p>Failure to follow the advice of clinical specialists and harm occurs</p> <p>There is evidence of poor practice or neglect</p> <p>If the above affects one person or more: Organisational-level harm should be considered (LSI)</p>	<p>Person not risk assessed with regards to pressure ulcers risk and management leading to catastrophic harm/ possible hospitalisation/ irreparable damage/ death</p> <p>Failure to provide suitable pressure relieving equipment / follow the advice of clinical specialists leading to catastrophic harm/possible hospitalisation/ irreparable damage/ death</p>
Medication	<p>Adult does not receive prescribed medication (missed/wrong dose) on one occasion – no harm occurs</p> <p>More than one adult does not receive medication on one occasion – no harm occurs</p>	<p>Adult(s) do not receive prescribed medication (missed/wrong dose) on one or multiple occasion resulting in harm/ the need for medical intervention</p>	<p>Recurring errors (missed/wrong dose) that affect more than one adult and/or result in harm/ the need for medical intervention</p> <p>Appearing over medicated.</p> <p>Insufficient prevention measures in place, training and audit</p>	<p>Covert or deliberate maladministration of medication</p> <p>Pattern of recurring errors or deliberate maladministration which results in ill health or death</p>

Type of Harm	Level of Risk				
	Lower Level		Serious		Very High
	Low	Moderate	Significant	Substantial	Critical
Sexual	Teasing or low level unwanted sexualised attention (verbal or touching) on one occasion – regardless of capacity	Verbal sexualised teasing or harassment on one occasion – no evidence of distress	<p>Service user on service user incidents where harmer lacks capacity:</p> <p>Recurring sexualised touch or masturbation without consent</p> <p>Being subject to indecent exposure</p> <p>Contact or non-contact sexualised behaviour which distresses adult (e.g. includes via social media)</p>	<p>Sex in a relationship characterised by authority, power inequality or exploitation</p> <p>Being made to look at pornographic material in absence of consent/ capacity to give consent</p>	<p>Sex in a relationship characterised by authority, power inequality or exploitation as per the Sexual Offences Act 2009</p> <p>Indecent exposure, indecent assault, rape</p> <p>“Revenge porn” and online exploitation</p> <p>Stalking/harassment</p>
	Adult is spoken to in a rude or inappropriate way on one occasion but is not distressed	<p>Occasional taunts or verbal outbursts which causes distress, responds to reassurance</p> <p>Restricting choice and agency by withholding information</p>	<p>Care or treatment which undermines the adult’s dignity and damages their self-esteem</p> <p>Denying or failing to respect the adult’s choice or opinion</p> <p>Frequent taunts or verbal outbursts</p>	<p>Deliberate humiliation</p> <p>Emotional blackmail (e.g. threats of abandonment /harm/ self-harm)</p> <p>Frequent and Frightening verbal outbursts</p>	<p>Denial of basic human rights</p> <p>Forced Marriage</p> <p>Prolonged intimidation</p> <p>Threatening, vicious personal attacks</p> <p>Stalking</p>

Type of Harm	Level of Risk			
	Lower Level		Serious	Very High
Financial	Low	Moderate	Significant	Critical
	<p>Money is not recorded safely or properly</p> <p>Single- or one-off incident of missing money and/or belongings where the quality of life has not been affected and little or no distress is caused</p>	<p>Adult is not routinely involved in decisions about how their money is spent or kept safe and their capacity to make such decisions with support is not properly considered</p>	<p>Adult denied access to own funds or possessions (including where one partner controls the other's access to money/property/rights)</p> <p>Adult's money kept in joint bank account and unclear as to equitable spend</p>	<p>Misuse/ misappropriation of money, property by person in position of trust or control, e.g. POA, guardian</p> <p>Fraud, exploitation in relation to income, benefits, property, will</p> <p>Theft</p>
Neglect	<p>Missed home visit on one occasion – no harm occurs</p> <p>Adult not assisted with a meal or drink on one occasion and no harm occurs</p>	<p>Inadequacies in care e.g. occasionally left wet, lead to discomfort but no significant harm</p> <p>No access to aids for communication/ independence</p>	<p>Repeat pattern of missed home visits or one missed visit and harm occurs</p> <p>Hospital discharge without adequate planning and harm occurs</p>	<p>Ongoing deficiencies in care which impact on health and wellbeing – e.g. pressure sores, urine burns, dehydration, malnutrition, injury from preventable falls, loss of independence/ confidence</p> <p>Ongoing deficiencies in care which result in irreversible damage or death</p> <p>Failure to access emergency services or medical care</p> <p>Failure to intervene in dangerous situations where adult lacks ability to safeguard</p>

Type of Harm	Level of Risk			
	Lower Level		Serious	Very High
Self-harm & self-neglect	Low	Moderate	Significant	Critical
	<p>Self-care causing some concern - no signs of harm or distress</p> <p>Property neglected but all main services work</p> <p>Some evidence of hoarding - no major impact on health/safety</p> <p>Teasing motivated by prejudicial attitudes towards an adult who has one or more protected characteristics on one occasion</p>	<p>First signs of failing to engage with professionals</p> <p>Property neglected</p> <p>Evidence of hoarding</p> <p>Lack of essential amenities</p> <p>No access to support</p> <p>Care planning fails to take account of impact of adult's protected characteristic(s) for a short period</p>	<p>Refusing medical treatment</p> <p>High level of clutter/ hoarding (Clutter Scale =4+)</p> <p>Insanitary conditions in property</p> <p>Won't engage with professionals</p> <p>Problematic substance use</p> <p>Weight reducing/ increasing</p> <p>Self-injury/poisoning on one occasion</p> <p>Others are affected by self-neglect re public health infection control advice</p> <p>Inequitable access to services</p> <p>Recurring failure to take account of impact of adult's protected characteristic(s)</p>	<p>Substantial</p> <p>Lack of self-care results in significant deterioration in health/ wellbeing</p> <p>Environment injurious to health</p> <p>Behaviour poses risk to self/others</p> <p>Others affected by selfharming or self-neglect</p> <p>Chaotic substance use</p> <p>Self-neglect accompanied by suicidal ideation</p> <p>Self-injury/poisoning requiring emergency treatment on one occasion</p> <p>Multiple reports from other agencies</p> <p>Refusal of access to essential services</p> <p>Denial of human rights and civil liberties</p> <p>Harassment on a regular basis</p>

Type of Harm	Level of Risk			
	Lower Level		Serious	Very High
	Low	Moderate	Significant	Critical
	<p>Lack of stimulation/ opportunities to engage in social and leisure activities</p> <p>Adult not enabled to participate in service design/delivery</p>	<p>Denial of individuality and opportunities to make informed choices and for positive risk taking</p> <p>Support/care plans are not personalised/ outcome-focussed</p>	<p>Rigid/inflexible routines</p> <p>Routines which benefit staff and organisation, not adults</p> <p>Dignity is undermined, e.g. lack of privacy during provision of intimate care, pooled underclothes, dentures</p>	<p>Bad practice not being reported and going unchecked</p> <p>Unsafe and unhygienic living environments</p>
	<p>Service design involves group living settings where residents are incompatible</p>	<p>Poor, ill-informed or outmoded care practice – no significant harm</p>	<p>Failure to whistleblow about serious issues when using internal procedures does not result in a response</p> <p>Denial of access to professional support and advocacy</p> <p>Personally befriending an adult who is unable safeguard</p>	<p>Failure to support adult to access health, care, treatments</p> <p>Failure to refer disclosure of harm</p> <p>Punitive responses to challenging behaviours</p> <p>Entering a sexual relationship with an adult who accesses services from the same service/type of service</p>
				<p>Staff misusing power</p> <p>Over-medication</p> <p>Inappropriate restraint resulting in injury</p> <p>Widespread, consistent ill-treatment</p> <p>Entering a sexual relationship with a service user who does not have the capacity to consent</p>

Type of Harm	Level of Risk				
	Lower Level		Serious	Substantial	Very High
	Low	Moderate	Significant	Substantial	Critical
Whole Service Concerns	Care plan recommendations relating to multiple residents/service users have not been implemented by the Provider, despite evidence of clear advice and guidance being given to the Provider, which is resulting in more than one individual being placed at risk of harm.	There is clear evidence that, despite contract monitoring and/or Care Inspectorate compliance review action planning, there is insufficient evidence of improvements within the service which is resulting in adults being placed at risk of harm.	Patterns of trends are emerging from data that suggests serious concerns about poor quality of care from a Provider across a number of care/support domains.	There is clear evidence from an individual ASP inquiry that other adults are at risk of harm.	<p>There has been a significant event where an adult has been seriously injured or has died and abuse or neglect are suspected as contributing factors.</p> <p>Several adults have been allegedly abused and/or substantiated enquiries about abuse by the same person posing a risk or a group of people posing a risk in the same setting.</p>

Appendix 4 Contacts

Local Contacts	
West Dunbartonshire Social Work Adult Support and Protection Referrals	Clydebank Area – 01389 811760 Dumbarton area – 01389 776499 wdadult@west-dunbarton.gov.uk
Out of Hours Social Work - Glasgow & Partners Emergency Social Work Service	0300 343 1505
For emergency situations (Police, Ambulance, Fire and Rescue)	999
If you suspect a crime has been committed, but it is not an emergency (Police Scotland)	101
NHS Greater Glasgow and Clyde – Public Protection advice for staff	0141 451 6605
Independent Advocacy- Lomond and Argyll Advocacy Service	01389 726543 or www.laas.org.uk
Carers of West Dunbartonshire	0141 941 1550
West Dunbartonshire Council	01389 738282
Telephone interpreting services	www.languageline.com/uk/interpretation/telephoneinterpretation
National Contacts	
Police Scotland	www.scotland.police.uk
Care Inspectorate	www.careinspectorate.com
Office of the Public Guardian	www.publicguardian-scotland.gov.uk
Mental Welfare Commission for Scotland	www.mwcscot.org.uk
Scottish Fire and Rescue Service	www.firescotland.gov.uk
Royal College of Speech and Language Therapy	www.rcslt.org

