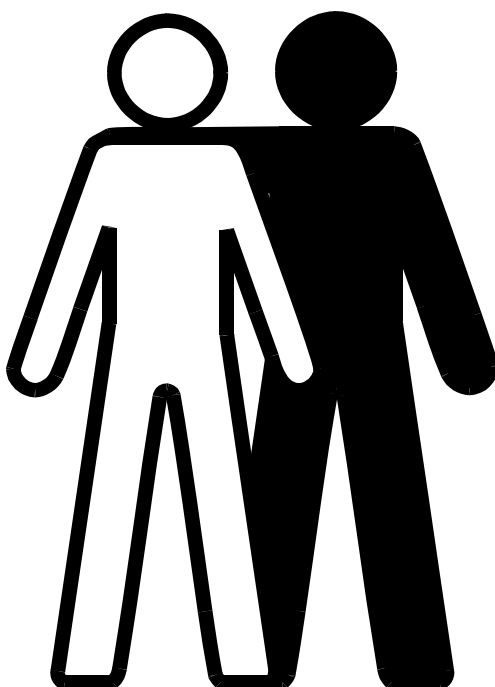


**The Adult Support and Protection
(Scotland) Act 2007**



Working together to protect adults Interagency Guidelines

Updated February 2016 – 2nd Edition



**West Dunbartonshire
Health & Social Care Partnership**

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” which 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 Code of Practice (COP) 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 Interagency Adult Support and 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 Supporting and Protecting People in West Dunbartonshire: Interagency Practitioner Guidance (The 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.

1. Multi Agency Definitions and Roles

1.1 Definitions

1.1.1 Adult at Risk

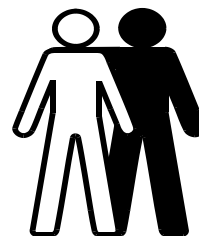
Adult at risk – the Act, Section 3(1) defines adults at risk as adults who are 16 and over and:-

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

The presence of a particular condition does not automatically mean an adult is an adult at risk. Someone could have a disability but be able to safeguard their property or well-being. It is important to stress that all three elements of this definition **must** be met, or that there are grounds for believing all three points may be met, for an adult to be an adult at risk and for interventions to take place under the 2007 Act. It is the whole of an adult's particular circumstances which can combine to make them more vulnerable to harm than others.

Key Points:

The key element of the three point test relates to whether the adult is **unable** to safeguard their wellbeing, property, rights or other interests. Practitioners should be guided by the Oxford Dictionary definition of unable which is “...*lacking the skill, means or opportunity to do something...*” 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.



1.1.2 Definition of Harm – 2007 Act - Section 53

Harm includes all harmful conduct and in particular:

- Conduct which causes physical harm;
- Conduct which causes psychological harm (e.g. fear, alarm or distress);
- Unlawful conduct which appropriates or adversely affects property, rights or interests (e.g. theft, fraud, embezzlement, extortion); **and/or**
- Conduct which causes self-harm.

The COP reinforces that harm can be accidental or intentional. Types of harm can be sexual harm or as a result of self-neglect or neglect by a carer or caused by self-harm and/or attempted suicide. Just because a type of harm is not specified in the Act it does not mean it is excluded by the legislation.

The COP reinforces that harm can happen anywhere; in the home, wider community, or through services for example NHS, Day Care, Residential or Nursing Care or Self Directed Support.

1.1.3 Principles of the Act – 2007 Act – Part 1, Sections 1 & 2

A public body or office holder must be satisfied that any intervention will provide:

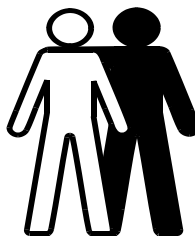
- **Benefit** to the adult which could not reasonably be provided without intervening in the adults affairs; **and**
- Is, of the range of options likely to fulfill the object of the intervention, whilst being the **least restrictive** to the adult's freedom.

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

- The adults ascertainable wishes and feelings (past and present);
- Any views of the adults nearest relative, primary carer, guardian or attorney and any other person who has an interest in the adults well-being or property;
- The importance of the adult participating as fully as possible in the performance of the function and providing the adult with such information and support as is necessary to enable the adult to participate;
- The importance of the adult not being, without justification, treated less favourably than the way in which a person who is not an adult at risk of harm would be treated in a comparable situation; and
- The adult's abilities, background and characteristics.

Key Point:

The adult, primary carers, nearest relative, legal guardian(s) or attorney(s) are not bound by the principles of the Act unlike 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 Adults with Incapacity (Scotland) 2000 Act which require to be adhered to.



1.1.4 People with associated 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.

Key Point:

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 adults 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.

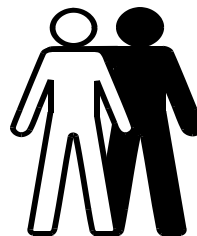
Where an adult perhaps has co-existing mental illness or physical conditions, these can continue to deteriorate or be exacerbated with or due to ongoing alcohol or drug use. It is important therefore, to make fresh inquiries when a referral is made as circumstances may be subject to rapid change.

1.1.5 People experiencing Gender Based Violence

The West Dunbartonshire Violence Against Women Partnership (WDVAWP) gives examples of violence which include, but are not limited to physical, sexual and psychological violence occurring in the family, within the general community or in institutions, including domestic abuse, rape, incest and child sexual abuse.

Key Point:

Situations of domestic violence, human trafficking or stalking do not automatically make a person an adult at risk under the Act. The key consideration for practitioners will be whether the adults safeguarding ability is impaired. An example of this may be where the sustained impact of the situation the adult is experiencing may have contributed to them being diagnosed with a mental disorder, such as clinical depression or anxiety. In this case their usual ability to make decisions or to take action to safeguard them may be temporarily impaired; therefore it may be appropriate to make at least initial inquiries under the Act to consider whether they are an adult at risk.



1.1.6 People experiencing Forced Marriage

The Scottish Parliament passed the Forced Marriage etc...(Protection and Jurisdiction) (Scotland) Act 2011 on 29 September 2010. The Act states that relevant persons, including those who protect and promote the welfare of children and those who protect adults at risk from harm, must have regard to it when exercising public functions.

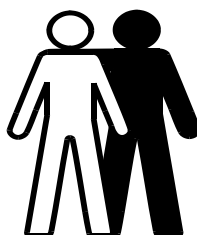
“A forced marriage is a marriage in which one or both spouses do not (or, in the case of children and some adults at risk cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure”

Other behaviours may include threatening conduct, harassment, threat of blackmail, use of deception and other means. It is also force to knowingly take advantage of a person's incapacity to consent to, or understand the nature of marriage. Duress may be from parents, other family members and/or the wider community.

Any adult concern that appears to relate to Forced Marriage should be discussed immediately with a Senior Social Worker and Police Scotland contacted to ensure a co-ordinated approach to any further decisions regarding intervention as this is a criminal offence.

Key Point:

Always remember the One Chance Rule - You may only have one chance to speak to a potential victim of forced marriage and therefore only have one chance to protect someone. Appendix 1 provides the One Chance Checklist which should be used by any Council Officer preparing to undertake any inquiries under Adult Support and Protection where Forced Marriage is a potential consideration or risk. The Council Officer should also familiarise themselves with a Forced Marriage Order as this may be an appropriate intervention in these situations.



1.1.7 Young People at risk of Harm

The Act defines an adult as being sixteen years and over. There are a number of ways in which an adult support and protection concern may be identified across Children's Services. In relation to local operational practice, where a young person is already in receipt of Social Work Services it is expected that any issues relating to harm or protection would ordinarily be addressed within the young person's care/support plan. If however the young person has reached the age of sixteen and is not subject to current

formal Child Protection arrangements, it may be more appropriate to address any harm under Adult Support and Protection legislation.

The COP stresses that young people aged sixteen to eighteen can be particularly easily influenced. Legislation places limits on children in regard to alcohol use not in place for adults, such as access to alcohol which may need to be considered.

Young persons aged sixteen to eighteen years who offend and are already being dealt with by the Courts would be the responsibility of the Criminal Justice Service in liaison with the Children and Families Service. Young people who offend and remain within the Children's Hearing System are dealt with by the Children and Families Service.

It may already be known or it may come to light that the young person lacks capacity to make decisions to protect their welfare, property and/or financial affairs. In such cases intervention may be required under the Adults with Incapacity (Scotland) Act 2000 and as such the Policy, Procedures and Practice Guidance: Adults with Incapacity (Scotland) Act 2000 should be followed.

Practice Note:

Young people subject to Child Protection registration would not automatically become adults at risk of harm. It would be expected that the protection plan already in place takes precedence and any harmful concerns or need for support are addressed within that.

It would however be best practice that Children and Families Services liaise with Community Care Services to ensure consideration can be given if arrangements for transition from Child to Adult Protection if necessary or applicable. The transition procedure should be referred to for further information.



1.1.8 Hate Crime

Hate crimes and incidents are taken to mean any crime or incident where the perpetrators hostility or prejudice against an identifiable group of people is a factor in determining who is victimised. However, a victim does not have to be a member of the group; anyone can be a victim of hate crime.

Hate crime involves any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice based on a personal characteristic. Hate crime can be motivated by disability, gender identity, race, religion or faith and sexual orientation. Hate crime can include threatening behaviour, assault, robbery, damage to property and inciting others to commit hate crimes and harassment. It can be committed against a person or property.

Any adult at risk referral which could constitute a Hate Crime should be discussed with the Police.

1.2 Reporting and Recording Concerns

1.2.1 Responsibilities

All agencies must recognise adult at risk concerns and report them to social services, who have the responsibility under the Act to lead and co-ordinate the response to these referrals.

Each organisation/service is expected to have their own internal policies and/or procedures to ensure their staff and those using that service are clear in regard as to how to report adult support and protection concerns.

The following guidance summarises the general expectations about how agencies referred to throughout this guidance should respond, and be responded to within West Dunbartonshire.

The flowchart summarising the local West Dunbartonshire referral process to Social Work is contained within Appendix 2 and should be followed in all instances. There are additional arrangements for some agencies which are detailed in Section 1.3 of this Guidance.

1.2.2 Recording a Referral

All referrals should be factual, accurate, legible, signed and dated at all stages. There are a number of key areas practitioners should consider including:

- The nature and substance of the concern;
- Details of the referrer (unless anonymous);
- Initial assessment of the incident or concern;
- Information on the person's circumstances;

- Any external referrals or consultations that have been made;
- Any issues of incapacity and/or consent that are known;
- The wishes and views of the adult;
- The decision and the actions taken and the reasons for these;
- Roles and responsibilities of any other person involved;
- The framework for monitoring and reviewing any ongoing involvement;
- Any issues of restriction and confidentiality in relation to information sharing.

All Adult at Risk referrals must be inputted onto the ASP Inquiry form on Carefirst. The ASP Initial Inquiry Event should also be opened.

1.2.3 Consent of the Adult

Information will not generally be shared by agencies without the consent of the person who is known or believed to be at risk of harm. The disclosure of personal information without consent is only justifiable on one of the following statutory grounds:

1. When professionals judge that it is necessary to act immediately in order to protect someone from serious harm or to report a suspected crime. Anyone proceeding on this basis must record and justify their actions. Advice can be sought from the relevant agencies legal or professional advisors.
2. When the Council is carrying out its statutory duty to investigate under the Adult Support and Protection (Scotland) Act 2007 and the adult has refused consent.
3. Other bodies who are signatories to this Guidance having a duty to report under Section 5(3) of the Act may disclose information regarding an individual's circumstances to the Council where they believe an adult is at risk and where the adult has refused to consent insofar as the disclosure is consistent with the proper exercise of their functions.

Obtaining Consent - How to get Consent

In order for the adults consent to be valid, it must be informed consent. This means that they have to understand fully what they are consenting to and the implications of both consent and withholding of consent. The adult must be made aware that they are being asked to consent to the sharing of information and that a referral, inquiry and/or investigation may follow. The adult will be asked separately for their informed consent to any protection plan developed at an Adult Protection Case Conference.

Capacity

According to the COP it is important to be clear about the adult's capacity in all cases. 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. The adult may be capable of giving consent. With regards to this, being incapable means by reason of mental disorder or due to inability to communicate because of physical disability with respect to:

- a) Acting; or
- b) Making decisions; or
- c) Understanding decisions; or
- d) Retaining the memory of decisions.

Advice on capacity can be sought from the Council's Mental Health Officers or any appropriate health professional.

Who obtains consent?

If the person who has the initial worry or concern has an appropriate professional relationship with the adult, then they should obtain the adults consent to the sharing of information in terms of making a referral. Alternatively, if this is not possible, a referral can be made to Duty Social Work or an appropriate professional in their agency and they will obtain the necessary consent to proceed.

There are times when the adult may be unable to give consent for example they may be unconscious. In these circumstances it would be appropriate for information to be shared however, as soon as practicably possible the person sharing the information should make the adult aware of this.

What if the adult refuses to consent?

If an adult refuses to give consent to a referral and inquiry or investigation into their circumstances and does not wish to accept any help or support to provide protection, then their wishes must be given due regard and recorded as part of the referral process within the AP1.

The legal circumstances set out at the start of this section justify further information sharing without consent, however additional factors below should also be considered by the Senior Social Worker in conjunction with any relevant multi agency partners which may influence the decision on whether to proceed with any further intervention or not, ensuring that the legal principles of the legislation have been applied and there is a balance of considering the rights of the adults with professional duties and powers:

- If they believe there are other steps that could reasonably be taken to safeguard the adult without the need for further intervention;

- If it is not clear whether the person has capacity to make decisions regarding their safety and it is reasonable to consider their capacity may be in doubt from the information shared;
- If he/she or others are at risk of harm as a result the reported concerns e.g. harm identified in a care home/hospital/support service;
- If it is suspected that the adult may be under undue pressure to refuse consent.

Definition: In Section 35 (4) of the Act, Undue Pressure is defined as:

- 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; **and**
- That the adult at risk would consent if the adult did not have confidence and trust in that person.

If the decision is that it is justifiable to continue to make a referral, share information and undertake inquiries and/or investigation the adult as far as practically possible must be informed of the decision to proceed.

Key Point:

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.

1.2.4 Data Protection and Information Sharing

The Data Protection Act 1998 governs the protection and use of personal information. All agencies acting under this Guidance accept the duty of confidentiality and will not disclose personal information about an adult at risk to any other person or organisation except in accordance with the terms of this Guidance or any other statutory duty or code of conduct.

Information sharing also relates to reports generated within the procedures including the AP1 Referral, AP2 Risk Assessment, AP3 Protection Plan and Minutes of Adult Protection Meetings.

These reports are confidential to Social Services and should be stored and considered in line with current management of confidential information procedures. A decision whether to circulate all or parts of any of these reports to any parties is the decision of the Senior Social Worker/Chair and must be recorded in the appropriate Carefirst notes for the adult at risk and within the documentation as part of a circulation list.

1.2.5 Co-operation

The duty of all public bodies to co-operate with reporting and inquiries is in Section 5 of the Act and Chapter 4 of the COP. Line managers from all agencies should ensure practitioners participate in interviews and visits, where requested by Social Services. Co-operation also includes the role of services in providing support for the adult and/or their carers.

In terms of good practice, all relevant stakeholders should co-operate with assisting inquiries and investigations.

In relation to co-operation between professionals, line managers from all agencies should ensure that multi agency staff are given and have sufficient time to attend adult support and protection planning meetings and/or conferences and core groups. Where

invited members of any of the afore-mentioned meetings are unable to attend, it should be noted that co-operation includes submission of any relevant reports.

Refer to Section 3.1.3 with respect to the Offence of Obstruction which may be applicable where an agency fails to co-operate without reasonable explanation.

1.2.6 Advocacy and Safeguarders

Advocacy that is independent of services helps safeguard the rights of people who are vulnerable or discriminated against or whom services find difficult to serve. Independent advocacy involvement is a crucial element for all at risk groups in ensuring that people understand their right to be free from abuse and also that they have information and support available to them to exercise their rights within the adult protection process.

The Act places a duty on public bodies to consider advocacy where there is a need to intervene after making inquiries under Section 4 of the Act to protect the adult at risk. Where an independent advocacy service is refused, deemed inappropriate or is unavailable this should be clearly recorded.

In relation to applications for Protection Orders under Section 41 (6) of the Act the Sheriff has discretion to appoint a person to safeguard the interests of the adult at risk in any proceeding. This means the Sheriff may instruct a Safeguarder to report on the issue of the adults consent to the application. In the context of criminal investigations, an advocacy worker would not be allowed to be present as an Appropriate Adult should be available.

1.2.7 Carers

If the risk of harm is thought to arise from a Carer it is crucial any investigation should gain an accurate picture of the Carers situation. It is well evidenced that caring, particularly without appropriate support, can have a significant impact on a Carers health, wellbeing and quality of life. It will therefore be important to recognise and acknowledge this through exploring with the Carer what support could be provided to them or to the adult which may alleviate the circumstances of the harmful situation.

The COP highlights that some Carers may have their own needs for support with communication and/or may benefit from independent advocacy provision. The Carers advocacy worker should be independent of the advocate for the cared for person and will represent the Carer as a distinct voice from that of the person being cared for. The advocacy workers for both the Carer and adult may assist in considering and assessing any conflict of interest for example the cared for person may attempt to influence the views they wish the Carer to express, and vice versa.

1.2.8 Negotiation

The complexity of situations where harm can be experienced means that an element of negotiation is inevitable in determining what action is required and what role each agency will have. The need to share information regarding the adult is crucial as what one person or agency knows or believes may only be part of a more concerning picture.

Partner agencies, particularly those with a statutory duty to co-operate will also require being responsive to requests for secondary workers whose role is detailed further in Section 3.2.

1.2.9 Dispute Resolution and Complaints

It is important that there are clear distinctions made between complaints about a service, a difference of opinion or dissent and an appeal against a decision of an adult protection case conference, as these are dealt with differently.

Complaint

A complaint may be made by an adult, carer or legal proxy when they are unhappy with an aspect of a service provided to them, for example, the quality or reliability of a service, the decisions an agency has made about service provision, or the conduct of staff. Every agency involved in the adult protection process has their own complaints procedure and all staff should be aware of this and be able to advise how to access this.

When an adult, carer or legal proxy has a complaint during the course of the adult protection inquiry/investigation which may include information sharing or the management of a particular case or the process around and during the Adult Protection Case Conference they must be advised of the Councils formal complaints procedures by the appropriate Council Officer, Senior Social Worker or Case Conference Chair and provision of this should be recorded in the minute.

1.3 Specific Agency Roles

1.3.1 West Dunbartonshire Council

The Act places a number of mandatory duties and optional powers on the Council 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.

Local Authorities also have duties under the Social Care (Self Directed Support) (Scotland) Act 2013 and the guidance for this Act provides further details of the link between Adult Protection and Social Care Assessment arrangements. The COP reinforces that choices made by an adult may increase risk but provide the benefit of greater control in terms of making informed decisions. The use of Self Directed Supports can improve the adult's ability to protect themselves which the Council will consider when intervening.

1.3.2 Police Scotland

The responsibility for investigating crime in Scotland rests with Police Scotland. In circumstances where a referring agency considers an immediate police response is required such as a violent or sexual crime in progress or just occurred they should encourage the adult to report the matter to the Police through telephoning **999**.

For non-emergency situations such as theft or fraud where a potential crime may be suspected and no contact has been made to the local Police by the referring agency or individual the Senior Social Worker receiving the referral will be responsible for considering police involvement and taking appropriate action through contacting the Police on **101**.

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

Key Points:

The Police have responsibility for ensuring that any person with 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 crime. The Police have their own contact number to arrange this. This is crucial as an advocacy worker would not be present during criminal investigations.

If a child is the subject of a Banning Order with an attached Power of Arrest, where practical the Police must make this known to anyone with parental responsibilities and rights in relation to the child and should also refer the matter to the Children's Reporter.



1.3.3 Scottish Fire and Rescue Services (SF&R)

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

1.3.4 NHS Greater Glasgow and Clyde

Over and above the role to recognise and report adults at risk of harm to the Local Authority and relevant health professionals are required to access information relating to an adult at risk of harm at the request of a Council Officer. This can be verbally at the time of an inquiry or investigation, or in writing (Appendix 6) as a request under Section 10 of the Act at any other time.

There is also a clear role for health professionals in terms of secondary workers (Refer to Section 3.2 for further information on the role of the Secondary Worker) and/or providing health or capacity assessments where this is relevant to the adult at risk.

The Local Authority does not make any payments in relation to any of the aforementioned activities.

1.3.5 Care Inspectorate

The Care Inspectorate has a key regulatory role and function in considering the safety of all service users in any registered care service and can take enforcement action under the Public Services Reform (Scotland) Act 2010. The Care Inspectorate have a duty to recognise and report adults at risk to the Local Authority, and to co-operate with any inquiries about adults at risk of harm and may be asked to assist in providing information for those inquiries. The Care Inspectorate may investigate complaints or inspect a service in parallel to other Adult Support and Protection Investigations being carried out either individually or as part of a Large Scale Investigation.

1.3.6 Independent and Third Sector and Registered Establishments

Over and above the role to recognise and report adults at risk and respond to requests for examination of records from the Local Authority, the manager of a registered establishment must also notify the Care Inspectorate.

The range of venues in which it is possible to perpetrate harm makes it impossible for guidelines to be prescriptive in every situation. Public Bodies as well as Independent and Third Sector providers have internal disciplinary investigation procedures that can be activated when an allegation is made against a member of staff. It is not the intention of these guidelines to replace any of these procedures, but rather to work in tandem with them to ensure that adults at risk are protected.

Key Point:

It should be noted that in terms of the disciplinary process, this is focused on supporting the employee and ensuring that the organisational policies and procedures have been and are followed. It does not assess the risk of harm to the adult or others which remain part of adult support and protection inquiries. Therefore, even though the disciplinary process may have been initiated, there is still a requirement to assess harm that may have occurred to the adult in order to support and protect them and adult protection processes should be initiated/explored.

At this time the Adult Support and Protection (Scotland) Act 2007 is not recognised as an enactment by the Social Security Administration Act 1992 which has resulted in many local authorities experiencing difficulties when requesting information from the DWP under Section 10(i) when Council Officers are making investigative inquiries in relation to adults at risk of harm.

The Scottish Government Mental Health Legislation and Policy Team have agreed to consider this when a future review of legislation and policy is undertaken. However, in the meantime they have agreed a protocol and template for use with the DWP when Council Officers make a request for access to information (Appendix 11).

This template has been circulated to all DWP district managers in Scotland with a covering note to explain its use.

The Department for Work and Pension (DWP) data sharing and access management team have agreed to be a point of contact to resolve any issues which may arise for Council Officers when using this template or if there are difficulties with accessing information through the aforementioned route.

1.3.7 Prisons (Scottish Prison Service and Private)

The Adult Support and Protection (Scotland) Act 2007 does not currently apply to prisoners in custody as the Crown is not currently bound to the Act. National guidelines in this area are currently being developed.

1.3.8 Office of the Public Guardian (Scotland)

The Office of the Public Guardian (OPG) fully comply with the requirements of Section 5 (3) of the Act and as such are legally required to report any adult at risk concerns to the relevant Local Authority.

The role of the OPG is to investigate matters in relation to the property and financial affairs of an adult who is subject to adults with incapacity legislation as they have no locus for any other investigations such as welfare issues or any other forms of harm, such as physical or psychological harm or unlawful conduct.

The OPG will commence an investigation at the request of a Local Authority upon receipt of a medical assessment confirming incapacity. Any investigating officer of the OPG will ensure they inform the relevant Local Authority they are pursuing an investigation and that there is no requirement for the local authority to pursue a similar investigation. However it may be necessary in some situations where there are multiple types of harm to consider and agree a joint approach to investigation.

1.3.8 Mental Welfare Commission for Scotland

Specific

- 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

General

Incidents where it appears there has been a deficiency in care or treatment and, as a result, an individual suffers a serious injury or adverse physical effects, including as a result of restraint, or where the injury has been caused deliberately by another person.

- Where an individual is living alone or without care and is unable to look after him or herself or his or her property or financial affairs and no intervention is taking place to remedy the situation.
- Incidents or circumstances in which a deficiency in care has led to the property of an individual suffering significant loss or damage or has led to it being at risk of significant loss or damage.

In addition to the above, local authorities should notify the Commission of:

- Any significant investigation the local authority carries out under Section 33 of the Mental Health(Care and Treatment)(Scotland) Act 2003 or Section 10(1)(c) of the Adults with Incapacity Act 2000 or where a Protection Order under the Adult Support and Protection(Scotland) Act 2007 has been taken out in relation to an individual.

2 Multi Agency Service Reporting Arrangements

2.1 West Dunbartonshire Council

All West Dunbartonshire Council staff should follow Section 5 of this guidance when reporting an adult at risk of harm.

2.2 Police Scotland

Adult at Risk Referrals will be received electronically from the Police via Police Scotland Concern Report which will be sent to: wdadult@wdc.gcsx.gov.uk

Duty Admin Staff will acknowledge receipt of the Police Scotland Concern Report and advise who the Adult at Risk Concern has been directed to.

On a monthly basis the ASP Admin Assistant forwards a spread sheet of referrals and outcomes to the APRC.

The APRC receives all requests for attendance at social work meetings relating to adults at risk and makes all necessary arrangements to ensure appropriate information and/or attendance is provided. Requests should be sent to argylldunbartonshireARC@scotland.pnn.police.uk

2.3 Scottish Fire and Rescue Services (SF&R)

Adult at Risk Referrals will be received electronically from SF&R via Adult Concern Report which will be sent to: wdadult@wdc.gcsx.gov.uk

All SF&R referrals will be co-ordinated by the local SF&R Prevention and Protection Officer (PPO).

The PPO receives all requests for attendance at social work meetings relating to adults at risk and makes all the necessary arrangements to ensure appropriate information and/or attendance is provided.

An Adult at risk will automatically be prioritised as a high risk of fire and will be responded to as such. SF&R will carry out a fire risk assessment in line with SF&R's Home Fire Safety Visit Policy.

The responsible Senior Social Worker receiving the SF&R referral will liaise with the SF&R nominated contact. The purpose of this is to ensure arrangements are in place to consider how the follow up visit by SF&R to evaluate the level of fire risk since the incident can be supported within the process of any Social Work ASP inquiry or follow up.

2.4 NHS Greater Glasgow and Clyde & NHS Contracted Services

All Health Staff are expected to be familiar with and follow the Act against Harm Adult Support and Protection Guidance for Health Staff produced by NHS Greater Glasgow and Clyde.

The Scottish Government also reissued guidance on the Involvement of GP's in Multi Agency Protection Arrangements to provide clarity relating to their roles and responsibilities.

All adult protection concerns regarding hospital in patients should be raised with the Social Work duty team.

All referrals will be made verbally in the first instance and followed up by the agreed referral form. The form will be sent to a dedicated secure e-mail address for the appropriate duty team.

2.5 Care Inspectorate

If the Care Inspectorate identifies or receives a referral about a person who may be considered as an adult at risk, (whether they are receiving care from a registered care service, or support from social work services), the Care Inspectorate Officer will refer the matter to duty social work as the representatives of the responsible body for undertaking an assessment of risk and deciding whether it is necessary to implement adult support and protection procedures. Should any referrer also wish to make a complaint against a registered care service, the Care Inspectorate will consider this, and the investigations of both the Council and the Care Inspectorate may run concurrently.

3 Social Work Definitions and Roles

3.1 Requirements, Authorisation and Supervision of Council Officers

3.1.1 Requirements/Authorisation of Council Officer

In West Dunbartonshire formal investigations under adult support and protection must be undertaken by Council Officers. For the purpose of this legislation, Council Officers are defined as:

- Registered Social Workers within Community Care or Adult Team with a minimum of 12 months experience in the risk assessment and management of adults at risk

They **must** have also undertaken the following mandatory additional training:

- Adult Support and Protection Council Officer Training
- Specialist training on Investigative Interview skills

And **must** also hold:

A West Dunbartonshire Council approved Identification Badge (ID) which has been updated to reflect their Council Officer status.

The Senior Social Worker/ASP Co-ordinator who authorises the ID request is also endorsing that they are satisfied that the Social Worker has reached the level of practice competence necessary to undertake the role of a Council Officer. The ID is a statutory requirement that is considered proof of the Council Officers legal authority to act and must be used when identifying themselves to any person during the course of any inquiry or investigation.

Key Note:

Children and Families Social Workers or Criminal Justice Social Workers do not undertake the role of Council Officer within West Dunbartonshire. This does not exclude them from the role of Secondary Worker as detailed within Section 3.2

The Senior Social Worker/Senior Management can also withdraw the authority of a Council Officer if they no longer meet the requirements. In these cases they should ensure the Council Officer is informed of this, for example during supervision, and their ID is amended accordingly. The relevant Integrated Operations Manager and the ASP Co-ordinator should also be informed.



3.1.2 Supervision of Council Officers

Council Officers are entitled to supervision in respect of their adult support and protection duties. Where the line manager of a Council Officer is not a registered Social Worker, the line manager will require ensuring that additional arrangements are made to support the Council Officer, as part of their continued professional development. This arrangement will ensure that the West Dunbartonshire Council Supervision Policy in respect of the statutory Council Officer role is met.

3.1.3 Offence of Obstruction

Section 49 of the Act provides it is an offence to prevent or obstruct any person (including a Council Officer) from doing anything they are authorised or entitled to do. It is an offence to refuse, without reasonable excuse, to comply with a request, to provide information under Section 10 of the Act or undertake any of the associated duties.

Key Point:

Any Council Officer who believes an offence may have been committed should raise this immediately with their line manager in consultation with legal services to agree a decision on how to proceed.

3.1.4 Council Officer Role in Risk Assessment

The first risk assessment responsibility of a Council Officer is the completion of the AP1. Further to this, where a more detailed multi agency risk assessment is required, they will be expected to complete an AP2. In the course of completing the AP2 Part 2, Section 2 (Chronology of Significant Events), the Council Officer should contact the relevant agencies involved to request their single agency chronology of contact as appropriate to the investigation and collate these into a multi-agency chronology on the AP2.

The AP2 provides a format for bringing together comprehensive relevant information however the Council Officer must use their professional judgement in relation to the level of risk and any protective action which may be required. The main benefits of the AP2 are that it:

- Focuses on the person and their involvement in the assessment and decision making;
- Requires assessors to determine whether the person has particular communication, support or advocacy needs;
- Ensures individuals rights and capacity is considered;
- Emphasises the importance of the views of the person;
- Provides a balanced view between risk and protective factors.
- Provides a detailed analysis of the risk
- Includes the views of the adult in terms of risk and protective factors

When to use the AP2 risk assessment

1. The AP2 risk assessment should be used in all cases where the risks involved are complex and require thorough assessment and clarity.
2. When the outcome of an ASP investigation is to proceed to case conference. The Council Officer should bring the AP2 risk assessment to the case conference meeting and share with all relevant individuals who will attend the meeting.
3. Where there has been a significant increase in terms of the level of risk and this is likely to impact upon the adult's safety and/or wellbeing.

Key Point:

We know from public inquiries and significant case reviews that a failure to make comprehensive risk assessments often results in an adult being inadequately protected or being subject to further harm.

Where adults are at risk of harm all forms of intervention must follow the principles of the Act using multi agency co-operation to maximise support to the adult.

Where there is regular multi agency involvement, a pattern of repeat referrals or continued high risk of serious harm; the AP2 can promote effective communication across agencies and ensure clarity for all in regard to risk management, roles and responsibilities.

The Working Together to Improve Adult Protection – Risk Assessment and Protection Plan 2007 provides guidance on the completion of risk assessments/protection plans which ensures they are rigorous and comprehensive.

3.1.5 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 adults consent unless it is proved that the adult has been subject to undue pressure to refuse consent.

The Adult Protection Co-ordinator should be notified 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 ASP Admin Assistant.

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

There are 3 types of Order that can be applied for to the Sheriff Court which are:

Assessment Order (s11)

This authorises the Council, if necessary to take the adult from a place being visited under the Order to allow:

- An interview to be conducted in private; and/or
- A private medical examination by a medical professional

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.

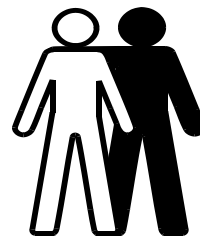
The police must pass the facts and circumstances regarding the incidents which gave rise to the arrest for breach of the banning order to the Procurator Fiscal who will determine if there is sufficient evidence to take any further criminal proceedings, for example assault or harassment of the adult at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

Key Points:

An Adult must consent to the application for a Protection Order and these must not be applied for without consent unless the Council Officer can evidence Undue Pressure by another or has a formal medical opinion of incapacity. This evidence must be provided to the Sheriff.

The decision to apply for a Protection Order must be authorised by the Team Manager of the Investigating Council Officer in consultation with the relevant Service Manager. They must believe there are no steps that could be reasonably taken with the adults consent before proceeding with an application for order.

It is also good practice to ensure that carers providing care and support are kept up to date with the proceedings, where appropriate. This is also important where a Carer is a guardian or a power of attorney.



3.1.6 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.

Practice Note:

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.

It should be noted that only the Police are authorised to use reasonable force or to restrain any person if required.

Legal services are responsible for formally notifying the subject of a Protection Order and any other relevant person that the application has been made.

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

3.1.7 Other Civil and Criminal Law Routes

The COP provides a number of examples of alternative legislative routes that could be considered to protect an adult at risk of harm. These are not exhaustive and may not apply in all cases, however they include:

- Where a crime has been committed and the Crown Office and Procurator Fiscal Service intends to prosecute, multi-agency partners could consider asking the Sheriff to consider bail conditions to protect the adult at risk from further harm;
- Section 17 of the Sexual Offences (Scotland) Act 2009 in relation to mental disorder;
- Guardianship under Adults with Incapacity (Scotland) Act 2000 where there is a task or issue specific capacity concern regarding the person's ability to protect themselves from those placing them at risk;
- Anti Social Behaviour Order;
- Breach of the Peace;
- Non Harassment Order;
- Forced Marriage Protection Order;
- Common Law Crime of Threats;
- Use of Mental Health (Care and Treatment) Scotland Act 2003 where adults with a mental disorder are neglected by others.

For further detail in relation to these measures refer to the Protecting People Legislative Information Booklet detailed which will be available from August 2014.

3.2 Accompanying/Secondary Worker

All statutory visits and interviews for the purpose of investigating allegations of harm under the legislation will require two workers. The Act allows for any person the Senior Social Worker in conjunction with the Council Officer deems appropriate to be a secondary worker. It would be best practice to ensure that secondary workers have

undergone appropriate specified Adult Support and Protection training, including training on the role of the second interviewer.

The Senior Social Worker/Council Officer should be clear about the role and function of the secondary worker and differentiate this from any additional person that may be needed for support (which may also include advocacy or communication support) which would be separate from the investigative role.

The secondary workers role is not solely to record the investigative interview. They perform a crucial support role to the lead investigator. They may already be known to the adult at risk of harm and/or their family and provide a way of facilitating initial access or rapport with the adult and/or their family. The secondary worker role includes:

- Recording a “detailed summary” of the content of the interview (this does not require to be verbatim recording)
- Recording non verbal communication observed during the interview
- Ensuring all agreed areas/topics discussed during planning with the lead investigator are covered during the interview
- Asking for time (to record) or clarification (about issues/facts) if needed
- At an agreed stage, with the lead investigator, may ask questions to clarify information provided or where the secondary worker has identified an area relating to the harm which the lead investigator may not have explored in full.

3.3 Chairs of Case Conferences

A Chair must meet the Council Officer requirement as detailed in Section 1.2

They must also have the following:

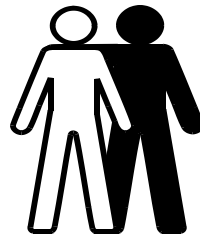
- Undertaken Chairing of Case Conference Training

- Experience of risk assessment and protection planning
- Either have a working knowledge of the Adults with Incapacity (Scotland) Act 2000 **and** the Mental Health (Care and Treatment) (Scotland) Act 2003 **or** if they do not have this, they must ensure the presence of a Mental Health Officer at the Case Conference where there are mental health concerns.

Within West Dunbartonshire, ASP Case Conferences are chaired by Senior Social Workers or occasionally, Integrated Operations Managers or the Adult Protection Co-ordinator. To ensure that there is a degree of independent scrutiny, recommended best practice is to ensure the Chair of the Case Conference is not the direct line manager for any lead Council Officer/Care Manager or Integrated Operations Manager involved in the case. The Case Conference Chair must not be the Investigating Council Officer.

Practice Note:

Chairs should be aware that they can consider dual legislation within the case conference process. Where they do this for example initiating an Adult Protection Case Conference but also covering Adults with Incapacity case discussion, they must ensure invites and introductions to meetings make this explicit. This will ensure everyone in attendance is clear that the criteria and principles of each legislation will be discussed within this single meeting.



4. Social Work Interdepartmental Responsibilities

4.1 Children and Families Services / Criminal Justice

4.1.1 Identifying a Concern

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 twenty five, dependent on circumstances.

4.1.2 Secondary Working

The Council Officer, Community Care will lead on any inquiry and/or investigation for the adult however may request that Children and Families or Criminal Justice workers act as the secondary worker which will also ensure they have a relevant named person with whom to coordinate the inquiry and/or investigation.

4.1.3 Protection Order

Where a Protection Order has been granted in respect of a child or an associated family member for example a Banning Order and there is no requirement for the banned person to have further adult service involvement, Children and Families services will be

responsible for the monitoring and review of the appropriateness of the order and to arrange multi-disciplinary meetings to ensure any decisions regarding either the revocation or further application of an Order is given consideration within appropriate timescales and is formally recorded in line with these procedures.

4.1.4 Early Intervention

The Early and Effective Intervention (EEI) considers all referrals where children may be exposed to harm via domestic abuse. Where EEI referrals have identified an adult at risk the group should ensure the process in Section 5 is followed.

4.1.5 High Risk Pregnancy

High risk pregnancy services are more appropriate where one or more of the following circumstances exist within the household: problematic alcohol and/or substance use, learning disability, domestic abuse, serious mental health issues, previous history of child abuse or neglect or any other adversity which may impact negatively on the maternal/paternal parents capacity to care and prepare for a new-born baby. Any worker becoming aware of a high risk pregnancy should liaise with children and families services to identify if the circumstances have been referred and/or assessed and how adult services are to be included in any subsequent intervention to support the adult.

4.4 Community Care Services

4.4.1 Self Directed Support

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. 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.

4.4.2 Protection within Care Management

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 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 Significant Event Box is ticked to ensure the concern will be included in any electronic chronology;

4.4.3 Secondary Working

All Team Managers within Community Care will be expected to respond to requests from Criminal Justice Services for secondary workers to support Council Officer Inquiries/Investigations and vice versa.

5. Social Work Procedure – Following a Report of Harm

5.1 Referral Process – See Appendix 2

5.1.1 Report of Harm (Adult Support and Protection (Scotland) Act 2007, S5 (3))

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 within the referrer section A.

5.1.2 Screening of 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:

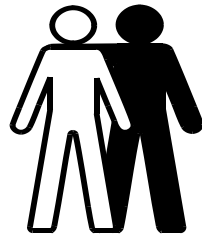
1. If any immediate medical assistance or police involvement is needed and arrange this if required;
2. Fire Risk and any action required to address this;
3. Any involvement of children, if confirmed they must report this immediately to the appropriate children and families duty team manager or relevant team manager;
4. 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;
5. 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

6. 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. Further information is contained in the Practitioners Guidance.

Practice Note:

In the event that 3 or more reports are made anytime within a rolling six month period involving the same adult, an Adult Support and Protection Case Discussion Meeting **must** be triggered 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.

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. Further information is contained in the Practitioners Guidance.



5.2 Inquiry Stage

5.2.1 Procedures Summary

Inquiry Stage

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 adults 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. However, where the adult is seen and the concerns discussed with them, this is more usually regarded as a formal adult protection investigation.

5.3.2 Procedures:

Referral:

Adult support and protection procedures should be followed:-

- When another person or agency suspects that an adult may be at risk of harm and passes this information to social work or
- When concerns about an adult known to social work change and it appears that the 3 point test is met

- When a referral is submitted on paperwork which states AP1, adult at risk or other similar terminology has been used.

In either case the information relating to the allegation or concerns should be entered into the appropriate ASP Inquiry form as soon as possible. The ASP Initial Inquiry event will also be opened.

An adult protection referral may be made by phone by an individual or agency but in all cases the referrer should be asked to complete the ASP referral form (AP1 - see Appendix 3) as soon as possible. Actions will be undertaken to start the adult protection inquiry before the written referral is received, but the referrer will be asked to complete and submit the form as soon as possible. They may also be reminded of the need to submit the referral form where this is not done in a timely way. All ASP referral forms should be saved within the client file.

In all cases, where a referrer states that they believe an adult to be at risk, the concern will be treated as an adult protection referral.

An adult protection referral may be made to either an allocated worker (in the case of a known service user) or to duty (in the case of a new referral).

Where it is believed that an allegation of forced marriage relates to an adult who meets the three point test, the allegation will be treated as an adult protection referral: for further guidance see West Dunbartonshire's Forced Marriage procedures.

5.3.3 When the adult in question is open to an existing worker and the adult protection referral/allegation is passed directly to this worker:

1. The worker should immediately discuss the referral/allegation with their senior, an operational manager or the adult protection co-ordinator in order to agree who should be contacted in order to undertake adult protection inquiries.
2. The information contained in the referral will be entered into the ASP Inquiry Form on Carefirst and all work relating to the allegation or concern will be recorded within the dedicated ASP forms. The ASP Initial Inquiry event will also be opened.
3. Even when an adult is well known to a worker or team, inquiries should be made by contacting other agencies involved with the adult in case there has been a change in the adult's circumstances.
4. If it has been some time since the last contact with the adult, or if the concern raised is serious, consideration should be given to a visit to them in order to ensure adequate assessment of their current circumstances.
5. The worker will discuss with their senior the information received and a decision will be made using the following options:-
 - Does not meet three point test, no further action
 - Does not meet three point test, referred to other agency
 - Does not meet three point test, assessment to be carried out
 - Meets three point test but managed through existing care plan
 - Meets three point test but other legislation to be used
 - Meets three point test and investigation required

6. In all cases, except where the referral has come from the police, the ASP Performance Team will inform the referrer of the outcome in writing. The option at 4.1.9 on the ASP Inquiry form must be selected to allow this to happen. Where the referrer is a member of the public a letter of acknowledgement of the referral should be sent, but no other information given without the adult's consent.
7. The ASP Inquiry form will now require authorisation from a relevant Senior. The ASP initial inquiry event should now be closed or moved onto ASP Investigation if appropriate.

5.3.4 When the adult protection referral comes directly to duty:

If the adult is open to a named worker:

1. Any referral concerning adult protection should be dealt with as a matter of priority.
2. If it is clear that the adult is open to a named worker, that worker should be contacted by phone so that the referral can be passed to them immediately for them to undertake the inquiry as detailed above. It should be confirmed if the ASP Inquiry form and ASP Initial Inquiry event will be assigned to them or another worker.
3. Where the named worker is unavailable the information should go direct to their senior for a decision as to whether that team can undertake the inquiry required or whether this will need to be undertaken by duty. Again contact should be made by phone so that it is clear the information has been received by the appropriate person as soon as possible.

4. In all cases, except where the referral has come from the police, the ASP Performance Team will inform the referrer of the outcome in writing. The option at 4.1.9 on the ASP Inquiry form must be selected to allow this to happen. Where the referrer is a member of the public a letter of acknowledgement of the referral should be sent, but no other information given without the adult's consent.

If the adult has no named worker:

1. It is the responsibility of the duty worker to undertake adult protection inquiries. They should discuss this with the duty senior, an operational manager or the adult protection co-ordinator in order to agree who should be contacted in order to fulfill this duty.
2. Enter all relevant details onto the ASP Inquiry form and open an ASP Initial Inquiry event.
3. The adult protection inquiries should be made by contacting other agencies involved with the adult in order to gain as full a picture as possible of the adult, their circumstances, the allegation contained in the referral and any potential risks to the adult.
4. If it is not possible to find any agencies who have up to date information about the adult, consideration should be given to a visit to them in order to ensure adequate assessment of their current circumstances. Please note that if the adult is interviewed then this is an ASP Investigation and the procedures for this should be followed.
5. Once information has been gathered, whether by phone or through a visit, the worker will discuss this with their senior and a decision will be made from the following outcomes:-
 - Does not meet three point test, no further action
 - Does not meet three point test, referred to other agency
 - Does not meet three point test, Social Work assessment to be carried out

- Meets three point test but managed through existing care plan
 - Meets three point test but other legislation to be used
 - Meets three point test and investigation required
6. If the adult does not meet the 3 point test it is important to be clear that they are aware of and have access to appropriate supports. If no other supports for them are apparent, it may be most appropriate to offer them a duty appointment.
 7. In the case of adults who do not meet the 3 point test and but repeat referrals are received, it is good practice to offer a duty appointment so that additional support for them may be discussed
 8. If the adult meets the 3 point test and is considered at risk of harm, the decision will be made as to whether an adult protection investigation is required, or whether the concerns referred are already known and adequately managed through an existing risk assessment and care plan.
 9. In all cases, except where the referral has come from the police, the ASP Performance Team will inform the referrer of the outcome in writing. The option at 4.1.9 on the ASP Inquiry form must be selected to allow this to happen. Where the referrer is a member of the public a letter of acknowledgement of the referral should be sent, but no other information given without the adult's consent.
 10. The ASP Inquiry form will now require authorisation from a relevant Senior. The ASP initial inquiry event should now be closed or moved onto ASP Investigation if appropriate.

5.3.5 The involvement of children

In all cases where children are part of a household where an adult is considered at risk of harm a referral should be made to the appropriate children and families team.

There will be circumstances where an individual may fall into both childcare and adult care services/legislation. Further guidance can be sought from both the COP and West Dunbartonshire's Transition guidance.

5.3.6 A second referral 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, this should be brought to the attention of the senior social work as soon as possible and another investigation should be undertaken.

5.3.7 Case discussions

A case discussion 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

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

5.3.8 Repeat Referrals

Were an Adult has been referred as an Adult at Risk on 3 or more occasions in a 6 month period and the outcome has been that they are not considered to be at risk. It is the responsibility of the Senior leading the inquiry to consider convening a multi-agency case discussion meeting.

5.3.9 Where 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.

If the case has been dealt with on duty up to this point it will need to be passed to the appropriate senior social worker in order for them to manage the investigation. In all cases the duty manager should make telephone contact with the appropriate senior social worker in order to do this. Where the senior social worker is not available, the duty manager should make contact with the next most senior manager for the team in order for them to assume responsibility for the investigation.

It is up to the manager responsible for the investigation to allocate it to a council officer and second worker. 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.

5.4 Adult 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 lead investigator must be a council officer as defined by the Adult Support and Protection (Scotland) Act 2007. The second worker could be a council officer, but may be any suitably qualified worker who is an employee of the HSCP where the responsible manager considers their involvement more appropriate.

All details of the investigation should be recorded using the ASP Investigation form and opening the ASP investigation event.

How the investigation will be conducted may have been discussed as part of a case discussion meeting, 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 advocacy services
- support for the adult's carer

Who else may provide valuable information for the purposes of the investigation and accessing this information.

Other particular circumstances as detailed below.

5.4.1 The purpose of the investigation will be:

- 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 establish identify if any other members of the household are at risk, including any children.

5.4.2 Interviewing the adult believed to be at risk:

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.

The Act requires that other support for the adult is also considered, such as independent advocacy.

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 JP 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.

5.4.3 Lack of consent:

Where an adult does not consent to be interviewed, social 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 them 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.

Gaining further information:

A certain amount of information will have been gathered as part of the inquiry 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 the DWP is required, this should be requested using the form developed by the Scottish Government in Appendix 11.

A council officer may request health records, but ensure that they will be examined by 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.

5.4.4 Gaining further information:

A certain amount of information will have been gathered as part of the inquiry 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 the DWP is required, this should be requested using the form developed by the Scottish Government in Appendix 11.

A council officer may request health records, but ensure that they will be examined by 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.

5.4.5 Particular circumstances

Medical examination

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 (Section 9). As in all cases except where an adult lacks capacity the adult must consent to the examination. Greater Glasgow and Clyde Health Board 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. See Appendix 6.

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.

5.4.6 Informing other Agencies

Harm involving a registered 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 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 should be informed and may 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 Co-ordinator.

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 involved.

Where there is an allegation of financial abuse or mismanagement for an adult with an appointee, the Department of Works and Pensions 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 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 the local authority to agree arrangements for investigation. The Act states that the responsible authority is that

where the person is for the time being in. 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.

5.5 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 or may be at risk of and how high the level of risk may be) and
- what actions may be taken to protect the adult in questions, 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 Investigation form, 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.

5.6 Conclusion of the investigation:

At the conclusion of the investigation the council officer, second worker 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.

5.7 Adult protection case conference

The outcome of any adult protection investigation where the adult is considered at risk will be a multi-agency adult protection case conference. This should be held **within 28 working days of the adult protection referral**. The purpose of the case conference is to

- To share information
- To consider the information available and determine whether the adult is at risk of harm
- If the adult is considered at risk of harm to develop a protection plan, whether this involves informal measures or the use of one of the protection orders

The case conference may be chaired by a senior social worker, the section head for community care, the adult protection co-ordinator, or another senior manager. 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.

The chair should follow each item on the Agenda (Appendix 4).

The manager responsible for the investigation and the council officer will liaise with the social work manager 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.

In general the adult in question and family members or carers will be invited to the case conference, although there may be times when this is considered inappropriate. 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.

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 Co-ordinator 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 will 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.

The case conference will be minuted and the chair is responsible for ensuring the accuracy of the final draft of the minute. 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.

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 at considerably under the 3 months maximum.

5.8 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

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

Again depending on the level and/or complexity of the case it will be agreed that core group meetings should take place in order to ensure that the elements of the protection

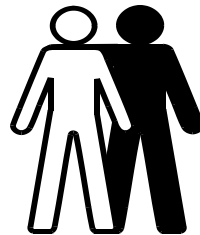
plan are in place and working as anticipated. The membership of any core group will be agreed at the case conference and the frequency of meetings specified.

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 afterwards to explain the decision of the case conference and any protection plan put in place.

If the client is considered as an Adult at Risk, the ASP Service – Monitor/Review event should be opened.

Practice Note:

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 at risk and/or the public which cannot be managed within the care management arrangements.



6. Adults Participation and Representation

The adult at risk should always be invited to a Case Conference, however they may choose not to attend, or the Chair may choose not to invite them in exceptional circumstances, for example it may be considered by a health professional that it is detrimental to their health or where they lack capacity and may have difficulty understanding or participating without distress, even with communication or other support being available. It should be noted that any person excluded from a Case Conference should be recorded on the minute with justification provided as to the reasoning.

Professionals in the key agencies are normally familiar with a case conference format; the same cannot normally be said of the adult at risk and their carers. Consideration should always be given to helping the adult and/or carers to fully participate in this important decision making process. An invitation to attend is not in itself sufficient, consideration should be given to ensuring that:

- The venue for the case conference is not intimidating to the adult or carers and any access or cultural needs have been considered;
- Ensuring that the number of professionals involved is not overwhelming for the adult which causes them not to attend e.g. reports provided by external agencies where their attendance is not essential;
- The appropriate communication aids, translation/sensory impairment services are provided which may include talking mats;
- Individuals from minority ethnic communities have access to any relevant communication support where required;
- The purpose and process of the meeting has been fully explained both before and during the meeting including the use of accessible information;

- Attendance for part of the meeting is possible if there are areas which an individual finds too distressing and there is an appropriate facility to support this. Video case conferencing could also be considered.
- When someone is unable to attend or contribute through lack of capacity or illness, advocacy and representation are facilitated;
- Adults at risk should not be required to confront those alleged to have caused harm in any meetings and arrangements should consider this;
- Where the person alleged to have caused harm may also be considered an adult at risk, a separate case conference should be held.

6.1 Agencies Participation and Attendance

Core Members – Members of staff from all relevant agencies who have a duty to attend all Case Conferences and Core Groups under these procedures, and if not in attendance have a responsibility to have a substitute attend on their behalf; or if not possible to do so, to send a full report to the lead professional and chair which will be shared at the meeting.

Invited Members – Members who are invited as and when required e.g. Children and Families workers where they are working with any of the adults involved or high risk pregnancies, Criminal Justice Workers who have had previous involvement with an adult and/or person causing harm, a General Practitioner, Specialist Nurse or Allied Health Professional who has ongoing involvement with the adult.

6.2 Decision Making

During the course of the meeting a number of key considerations and decisions require to be made by the Chair, see agenda (appendix 4 and 5).

6.3 Protection Plan (AP3)

The minute agreements and actions form the basis of the outcome of the case conference. This must be completed when an Adult Protection case conference has decided that due to the level of risk, the adult requires to continue to be monitored under formal Adult Protection procedures i.e. a Review Case Conference is required. This could include ongoing consideration of a Protection Order or other alternative legislation that continues to require multi agency information and support to safeguard the adult.

An AP3 Protection Plan should be completed and distributed within two weeks of an Initial or Review Adult Protection Case Conference. Following the meeting the minute taker along with the Chair will transfer the meeting agreements and actions onto an AP3 template and pass to the Chair for approval in advance of circulation.

7 Miscellaneous

7.1 Large Scale Investigation

The COP states that a Large Scale Investigation may be required where an adult who is resident of a care home, supported accommodation, NHS Hospital Ward or other facility, or receives services in their own home has been referred as at risk of harm and where the investigation indicates that the risk of harm could be due to another resident, a member of staff, some failing or deficiencies in the management regime or environment of the establishment or service.

Please refer to the separate Large Scale Investigation procedures document for guidance.

7.1 Cross Boundary Working

The Adult Support and Protection (Scotland) Act 2007 requires that the Local Authority where the adult at risk resides takes lead responsibility for accepting and co-ordinating any responses or intervention for that adult. This means that where an adult who is care managed and/or funded by another local authority receives a care service or resides in a registered establishment where the harm occurs this must be reported to the host authority.

The Senior Social Worker receiving the referral will ensure they make arrangements to contact the funding authority to inform them of the nature of the concern and any further action that may be required by either the funding or host authority.

7.2 Transfer of Information when an Adult at Risk moves to another Local Authority

7.2.1 When an adult at risk who is the subject of on-going formal ASP Procedures moves or is moved by family or other person(s) from West Dunbartonshire and their whereabouts are unknown the key worker should immediately inform their Senior Social Worker who should alert the relevant Service Manager.

7.2.2 If the adult is believed to be in danger, the Police and West Dunbartonshire Out of Hours Service should be notified immediately of the nature of the risks and a lead contact for further communication.

7.2.3 An Adult Protection Planning Meeting involving relevant agencies should be convened within two working days to share information and agree any further action required.

7.2.4 Where the adult at risk who is subject to formal ASP Procedures moves (or is moved by family or other person(s)) to a known address in another area the Team Manager should contact the receiving Social Work office to pass on essential information about the adult and indicate services that the adult might require. They should decide which authority will be responsible for monitoring the case until an Adult Protection Transfer under care management can be arranged. Any dispute around who should assume responsibility should be passed to the relevant Service Manager.

7.2.5 The Team Manager should confirm the referral and/or transfer to the other local authority by letter, enclosing relevant reports, including the most recent Adult Protection Review Case Conference Minute. Even where West Dunbartonshire retains interim responsibility for monitoring the adult, a copy of all relevant information must be forwarded in a manner ensuring confidentiality and security.

7.2.6 If the key worker from West Dunbartonshire is continuing to hold responsibility until the transfer case discussion, he or she should obtain all relevant information about appropriate services within the new area and ensure that the adult is registered with a general practitioner in the new area who is made aware of the risks.

The vital role of GPs when a vulnerable patient moves from their practice is underlined in a letter to GPs from the Chief Medical Officer (dated 3 May 2005) headed Key Messages for GPs in Dealing with People with Learning Disabilities which states that:

“...When vulnerable families affected by learning disability move between primary care services make sure information about them and the risks they face travels with them. Alert the service taking the family on by telephone and in writing...”

7.2.7 The relevant Service Manager should convene an Adult Protection Case Conference within **28** working days of the adults move to the new area involving appropriate attendance from relevant agencies from both originating and receiving areas. It may be appropriate for the conference to take place prior to the adult moving if this is practicable.

7.2.8 The Adult Protection Case Conference will decide on and minute whether responsibility for managing the case remains with West Dunbartonshire or is assumed by the receiving area. Any dispute which cannot be resolved by the Team Manager or Service Manager should be passed to a Senior Manager for resolution.

7.2.9 The adult at risk (and carer/relatives as appropriate) and relevant agencies should be notified of our intention to transfer responsibility for the adult to another authority and contact details provided for the new keyworker and social work office.

7.2.10 The adult at risk may also receive support and care from a different provider organisation in the new area and it is the responsibility of the key worker in West Dunbartonshire to ensure that new service providers are given relevant information on a „need to know” basis about the risks to the adult, contact details for the new key worker and any delegated responsibility they may need to assume under monitoring arrangements contained within any protection plan.

7.3 Notification of an Adult at Risk Transferring from another Local Authority

7.3.1 When notification is received from another authority of the move of an adult at risk of harm to West Dunbartonshire, the Team Manager should communicate our expectation to the originating authority that:

- Relevant papers are sent to the Service Manager within West Dunbartonshire as detailed in previous section;
- The originating authority will be expected to convene an AP Case Conference within an agreed timescale which facilitates the attendance of the adult, relatives and agencies from West Dunbartonshire;
- The case file, including relative reports will be expected to be provided to West Dunbartonshire at the point of transfer.

Appendix 1 Forced Marriage One Chance Checklist

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

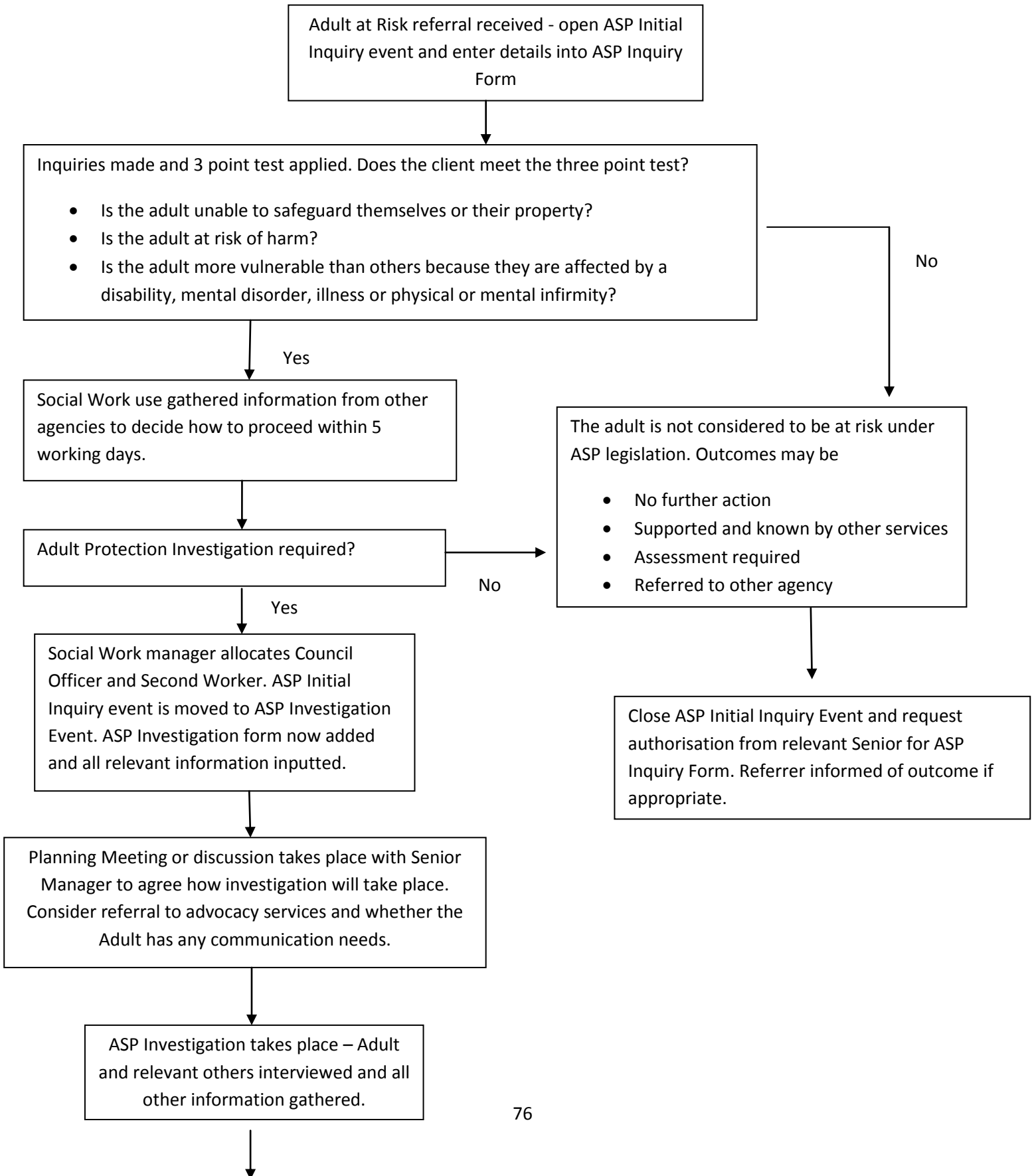
DO NOT

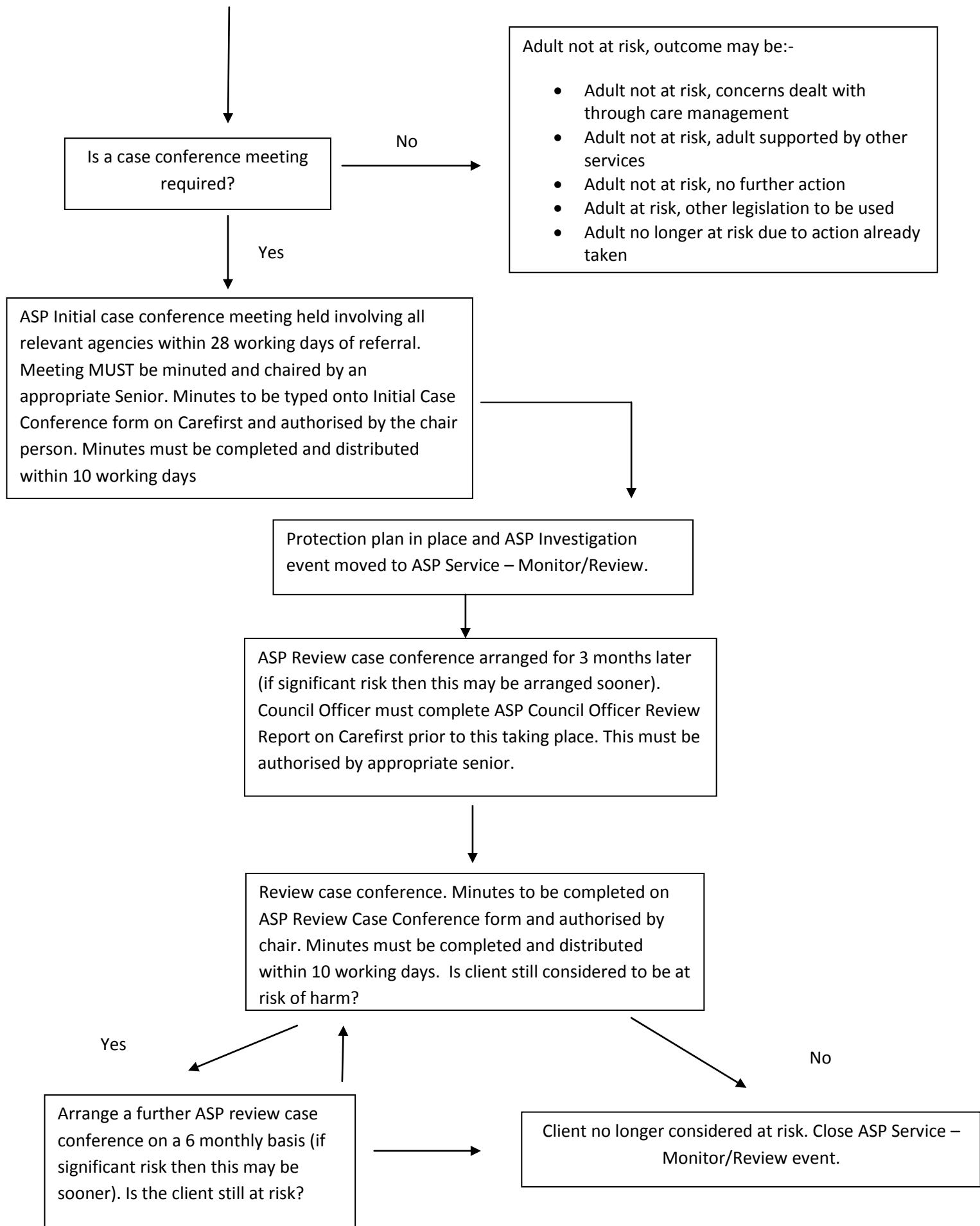
- Send her away or let her leave without a safety plan and follow up arrangements
- Approach her friends/family or community unless she asks you to do so
- Approach community leaders for advice
- Share information with anyone without her express consent (unless there is a risk of immediate harm to her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

See more at www.scotland.gov.uk/ForcedMarriagePractice

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

Appendix 2 – Social Work ASP Flow Chart





Appendix 3

Adult Support and Protection Referral Form

Adult's name	
Adult's address	
Adult's date of birth	

Name of person making the referral	
Job title	
Organisation name or Member of the public	
Address and phone number	
What harm do you believe the adult is at risk of?	Physical <input type="checkbox"/> Neglect <input type="checkbox"/> Emotional <input type="checkbox"/> Self-harm <input type="checkbox"/>

<i>(Please tick 1 or more)</i>	<p>Financial <input type="checkbox"/> Self-neglect <input type="checkbox"/></p> <p>Sexual <input type="checkbox"/> Other <input type="checkbox"/></p>
Please give details of your concerns	
Does the adult know you are making this referral?	
Have you attached an incident form? <i>(if you work for an organisation that provides care/support)</i>	
Any other information you wish to provide	

Signature:	
Date:	

Guidance:

All adult protection referrals should be made by telephone to the appropriate social work team. Where the adult has no allocated worker or the worker's name is unknown the referral should be made by phone to the relevant office below:

Clydebank: 01389 811760

Dumbarton/Vale: 01389 737020

Resident on Resident: 01389 776837

This form should be used to follow up the telephone referral and confirm the information already passed on. The worker who deals with the telephone call will confirm the address to which it should be sent.

Appendix 4 Adult Support and Protection Initial Case Conference

AGENDA

1. Welcome and Introductions
2. Details of Allegations and Concerns
3. Other Agencies Information
4. Adult / Carers View
5. General Discussion
6. Risk Assessment
7. 3 Point Test and Decision
8. Details of other protection such as use of other legislation
9. Protection Plan
10. Details of anyone else to be informed of Protection Plan and Any disagreement from those present
11. Date of review case conference meeting

Appendix 5 Adult Support & Protection Review case Conference

AGENDA

1. Social Work Report & Update
2. Other Agencies Information
3. Adults/ Carers View
4. General Discussion
5. Risk Assessment
6. 3 Point Test and Decision
7. Protection Plan
8. Details of any other to be informed of Protection Plan
9. Any disagreement from those present
10. Date of review case conference

Medical Examination – Guidance Notes (May 2009)

Section 9 of the Adult Support & Protection (Scotland) Act 2007 allows a health professional to conduct a medical examination of an adult thought to be at risk of harm in private. A medical examination includes any physical, psychological or psychiatric assessment or examination. The examination can take place either at a place being visited under Section 7 of the Act, or at the premises where the adult has been taken under an assessment order granted under Section 11.

Who may request an examination?

A medical examination may be requested by a Council officer (normally a social worker) who will give a reason as to why an examination is being requested and what question such an examination might help to answer.

Who may conduct a medical examination ?

A medical examination may only be carried out by a health professional as defined under ASP 2007 Act Section 52(2) as:

- doctor;
- nurse;
- midwife;
- or any other type of individual described (by reference to skills, qualifications, experience or otherwise) by order made by Scottish Ministers.

(Scottish Ministers have not made an order prescribing other individuals)

What is the purpose of a medical examination ?

A medical examination may be required as part of an investigation for a number of reasons including:

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

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

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

N.B. Such a medical examination does not preclude a forensic medical examination being requested by the police but rather may inform the need for such.

Does an individual have the right to refuse a medical examination ?

The ASP 2007 Act Section 9(2) states that the person to be examined must be informed of their right to refuse to be examined before a medical examination is carried out.

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 in such circumstances to tell the patient what treatment has been provided as soon as the patient is sufficiently recovered to understand. An example of an emergency situation where consent cannot be obtained is where the person is unconscious.

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

Issued by: Danny Crawford, Adult and Public Protection Adviser, NHSGGC

E-mail : danny.crawford@ggc.scot.nhs.uk

NHS Greater Glasgow and Clyde

Adult Support and Protection (Scotland) Act 2007 – Section 9 Medical Examination

Patient Details- TO BE COMPLETED BY COUNCIL OFFICER REQUESTING MEDICAL EXAMINATION

CHI Number Carefirst No.

(if unknown please state unknown)

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

DOB Gender M F

Patients Home Address.....

Post Code.....

Ethnicity Language
 Disability Y N

Health Professional's details

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

Work Address.....

.....

Post Code.....

Employer (if applicable).....

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

.....
.....

Council Officer's Signature Designation..... Print
Name..... Council.....

Address
.....

Findings on Examination (please attach a further sheet if necessary)

harm

Does the patient exhibit any signs of physical harm/ self-harm?

If so, please describe these.

Does the patient exhibit any signs of physical/emotional neglect?

If so, please describe these.

Examination Findings-

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

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

Signed Date

Appendix 7 - TO WHOM IT MAY CONCERN

I hereby provide consent for West Dunbartonshire Council to apply to the Sheriff Court for the following Order in terms of the Adult Support and Protection (Scotland) Act 2007:

Assessment Order	<input type="checkbox"/>
Banning Order	<input type="checkbox"/>
Removal Order	<input type="checkbox"/>

(Tick applicable order)

Signature: Date:
Full Name:	
Address:	

If signing in a representative capacity, please indicate whether you are a:

<input type="checkbox"/>	Guardian	Date of Order:
	or	
<input type="checkbox"/>	Attorney	Date of Power of Attorney:

**Appendix 8 ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007
ADULT AT RISK**

Purpose of Report: To seek an Assessment Order under the Adult Support and Protection (SCOTLAND) Act 2007 to protect the welfare of the adult at risk.

1. Name of Adult at Risk:
2. Current Address:
3. Date of birth:
4. Background information:
5. Grounds for suspecting that the above adult is at risk of being or likely to be seriously harmed by another person:
6. Grounds for believing that an assessment order is required in order to establish whether the above is an adult at risk who is being or likely to be seriously harmed (and what other option have been considered):
7. The adult's views if these can be ascertained, their consent to the order, evidence of undue pressure or lack of capacity:
8. Details of plan for how an assessment order will be carried out, including details of the place where the adult will be interviewed or the medical examination carried out and when this will take place

Date and signatures of council officer

**Appendix 9 ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007
ADULT AT RISK**

Purpose of Report: To seek a Removal Order under the Adult Support and Protection (SCOTLAND) Act 2007 to protect the welfare of the adult at risk.

1. Name of Adult at Risk:
2. Current Address:
3. Date of birth:
4. Name and Address of place to which adult is to be removed:
5. Background information
6. Grounds for believing that the above adult is at risk of being or likely to be seriously harmed if not moved to another place (and what other options have been considered):
7. Details of availability and suitability of place to which the adult is to be moved:
8. The adult's views if these can be ascertained, their consent to the order, evidence of undue pressure or lack of capacity:
9. Details of plan for how a removal order will be carried out and how support and protection may be provided in the future:

Date and signatures of council officers

**Appendix 10 ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007
ADULT AT RISK**

Purpose of Report: To seek a Banning Order under the Adult Support and Protection (SCOTLAND) Act 2007 to protect the welfare of the adult at risk.

1. Name of Adult at Risk:
2. Current Address:
3. Date of birth:
4. Background information
5. Grounds for suspecting that the above adult is at risk of being or likely to be seriously harmed by another person:
6. Ground for believing that the adult at risk's well being or property would be better safeguarded by banning the other person from a place occupied by the adult than it would be by moving the adult from that place:
7. The adult's views if these can be ascertained, their consent to the order, evidence of undue pressure or lack of capacity:

Date and signatures of council officers

Appendix 11 Scottish Government Guidance

ADULT SUPPORT AND PROTECTION

Local Authority application for disclosure of information under the Adult Support and Protection (Scotland) Act 2007

Overview

DWP's policy for disclosure of personal information for "vulnerable adults" is that as long as a requester can provide sufficient informative detail as to the indicators of the person's vulnerability and risk to DWP we can disclose factual and relevant information in order to ensure the safety of the person. Applications must be dealt with on a case-by-case basis and when necessary seek disclosure advice and guidance.

In Scotland, the Adult Support and Protection (ASP) (Scotland) Act 2007 Act gives councils and other public bodies working with them various powers to support and protect adults at risk (as defined by the Act).

For the purposes of the Act, an adult at risk is someone who is:

unable to safeguard their own well-being, property, rights or other interests;

is at risk of harm; and

because they are affected by disability, mental disorder, illness of physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.

Section 10 of the Act requires any person holding health, financial or other records relating to a particular individual to give the records, or copies of them, to a council officer. Information requested under section 10 of the Act is used to allow the council to decide whether the individual is an adult at risk of harm and whether it needs to do anything to protect them from harm. An adult protection investigation may also lead to criminal action, depending on what the information reveals. Under section 49(2) of the Act it is an offence to fail to comply with a requirement made under section 10, without reasonable excuse.

While the ASP Act is not recognised as an enactment by the Social Security Administration Act 1992, it is a key tool for safeguarding adults at risk in Scotland. Co-operation between organisations which hold information about people who may be

adults at risk is central to the ethos of the Act, and is necessary to ensure that steps can be taken to support and protect adults from harm.

DWP is able to share data on a case-by-case basis when disclosure is deemed to be in the public interest. Such information requested under section 10 of the ASP Act will be used only for the purpose of establishing whether the individual is an adult at risk of harm and determining whether the council needs to take action to protect the adult.

Request for information under section 10 of the ASP Act

I would like to request disclosure of information under section 10 of the Adult Support and Protection (Scotland) Act 2007 as follows:

Name of person	
National Insurance Number * and/or Date of Birth & Address (* National Insurance Number preferred identifier)	
Brief reason why the information is requested and the use that will be made of it	
Information that is requested	
Requestor's name, position, organisation, address and telephone number.	

Appendix 10 - Updates to Carefirst System

When entering any information onto Carefirst, please ensure that you have selected the correct client. For more information on how to search for clients and add assessments and events, please refer to the Carefirst Users Manual.

Adult at Risk Referrals

1. When you receive an Adult at Risk referral, enter all details onto the ASP Inquiry Form in Assessments.
2. Open ASP Initial Inquiry event, this will remain open until the inquiry is completed.
3. Once the initial inquiry is complete, request that the ASP Inquiry form and event is authorised by appropriate Senior Worker.
4. If an ASP investigation is required then the event will be moved onto ASP Investigation.

If an investigation is required

5. Enter all information into the ASP Investigation assessment.
6. Open the ASP Investigation event; this will remain open until the investigation is complete.
7. Once the investigation is complete, request that the ASP Investigation assessment and ASP investigation event is authorised by the appropriate Senior Social Worker.
8. If the adult meets the three point test, is at risk of harm and an ASP case conference is required, then the event will be moved onto ASP Service Monitor / Review.

If a case conference meeting is required

9. If a case conference meeting has been agreed, then the ASP Service Monitor / Review event should be opened. This will remain open until the ASP process as finished and the client is no longer considered as an Adult at Risk.
10. The chair of the final case conference where it was agreed that the client is no longer at risk should authorise this event when closed.

Case Conference Minutes

All ASP case conference minutes should be entered onto Carefirst.

1. Find ASP initial case conference minute or ASP review case conference minute within Assessments.
2. Enter all relevant information.
3. Once complete request authorisation from Chairperson.

Council Officer Review Reports

All Council Officers should complete this report before a review case conference meeting and entered onto Carefirst

1. Find Council Officer Review Report within Assessments.
2. Enter all relevant information.
3. Once complete request information from the appropriate Senior Social Worker.



West Dunbartonshire
Health & Social Care Partnership

Appendix 13

Adult Support and Protection

118 Dumbarton Road
CLYDEBANK
G81 1UG

XXXXXXX

Senior Clerical Assistant

Tel: 0141 562 XXXXX

Email: XXXX.XXXX@wdc.gcsx.gov.uk

Ref: Your Ref:

DATE

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Dear XXXXXXXX

Acknowledgement of Adult at Risk Referral

Please accept this as acknowledgement of the Adult at Risk referral you submitted on ??/??/??????.

This matter was dealt with by the appropriate Social Work team and a full Adult Support and Protection inquiry was undertaken. The result of this inquiry was (insert outcome).

If you have any further questions regarding the referral, then please get in touch by telephoning Kirsty Martin on 0141 562 2457.

Yours sincerely

ASP Senior Clerical Assistant