DUMFRIES AND GALLOWAY
PUBLIC PROTECTION COMMITTEE

Dumfries and Galloway Multi-Agency Adult Support and Protection Guidance

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Table of Contents

CHAPTER 1- CONTEXT AND GOVERNANCE 5

1. Introduction 5

2. Aims of Guidance/ Scope 6
   Aims 6
   Scope 6
   Multi-Agency Working 6

3. Legal Context of ASP, Relevant Legislation and Strategies 7
   Links to Legislation and Regulations 7
   Links to National Guidance 8

4. Principles of ASP 8
   Principles 8
   Values 8

5. Measures, Definitions, Cross-Boundary Practice 9
   Measures 9
   Definitions 10
   ASP Cross Boundary Cases 15
   Investigations in Host Authorities 15
   Investigations Within Care Settings in Dumfries and Galloway 15
   The Importance of Advocacy 16
   Legal Orders 16

6. A Public Protection Approach, The Public Protection Committee, Chief Officers' Group (COG) and Learning Reviews 17
   Adult Support and Protection Governance Arrangements 17
   Role and Responsibilities of the Public Protection Committee 17
   Roles and Responsibilities of the COG 17

7. Learning Reviews 18

CHAPTER 2 – ADULT PROTECTION REFERRALS – DUTY TO REPORT 19

1. ASP Referral Process 19
   Duty to Report 19

2. Voluntary and Private Sector 20
   Commissioned Services 20

3. Emergencies or Where a Crime May Have Been Committed 21

4. Is the Adults Consent Required Before Making a Referral? 22
   Capacity 22

5. Confidentiality and Information Sharing 22
   Sharing Information and Consent 22

6. Harm From Staff to an Adult at Risk 24

7. Referrals/ AP1 24
   Screening and Triaging Referrals 24

8. Initial Referral Discussions (aIRDS) 25

9. Chronologies **25**

CHAPTER 3 - ADULT PROTECTION INQUIRIES **26**

1. Adult Protection Inquires – a Multi-Agency Approach **26**
Multi-Disciplinary Approach to Inquiries 26

2. Children, Council Duty to Inquire, Emergency Action **26**
When Should a Council Make Inquiries? 26
Council's Duty to Inquire Under 2007 Act (Section 4) 26
Adult Support and Protection Inquiries 26
Duty to Inquire 27
Capacity 27
Duty of Care 28
Trauma 29
Where There is Subsequent Police Involvement 29
Are There Any Children Involved? 29
Transition from Child Care to Adult Care 30
Support for Unpaid Carers 31

3. Care Inspectorate **31**
Initial Inquiries 31

4. Inquiry Decision and Possible Outcomes **31**
Conclusion of Inquiry and How to Proceed 31
Possible Outcomes of an Inquiry 31
Planning Meeting 32
Outcomes 32
Self-Directed Support 33
Referral Escalation Process 33

CHAPTER 4 - ADULT SUPPORT AND PROTECTION INVESTIGATIONS **34**

1. Adult Protection Investigations **34**
Planned Investigations 34
Planning an Investigation 34
Planning Large-Scale Investigations 35

2. Visits, Support Services, Including Advocacy and Communication **35**
Investigative Interview (Visit) 35
Refusal of Entry - Warrant Application 36
The Adult's Participation 36
Support Services 36
Role of Advocacy Services 37
Communication Difficulties 37
Interviews During Investigation 37

3. Adults Rights, Access to Records, Medical Assessment, Intervention and Examinations **38**
Adult's Rights During an Interview 38
Presence of Others at Interviews 38
Interviews With Others 38
Access to Records 39
Medical Intervention and Examination 40

Consent to Medical Examination 41
4. Risk Assessments, Investigation Decisions and Possible Outcomes 41
Completion of Investigation Report and Risk Assessment 41
Chronologies 42
Conclusion of Investigation 42
Police Involvement 43
Where the Adult Does Not Engage 43
Feedback to Referrer 43
CHAPTER 5 - ADULT SUPPORT AND PROTECTION CONFERENCES 44
1. Case Conference, Chair, Exclusions 44
Purpose of a Case Conference 44
Responsibilities of the Chairperson 44
Invitations to Adult Support and Protection Case Conferences 44
2. Process, Content, Minutes and Protection Planning 45
The Process and Content of the Case Conference 45
Case Conference Minutes 45
Protection Plan 45
3. Case Conferences and Core Groups 46
Core Groups 46
Adult Support and Protection - Review Case Conference 46
Concluding Adult Support and Protection Processes 47
End of ASP Core Groups 48
4. Disagreements, Resolution, Escalation and Complaints 48
Case Conference Dissent/ Dispute/ Complaints 48
Escalation 48
APPENDICES 50
Appendix 1 – Adult Protection Referral Form AP1 51
Appendix 2 - ASP Process Flowchart 54
Appendix 3 - Glossary 55

CHAPTER 1- CONTEXT AND GOVERNANCE

1. Introduction

1.1 Most adults, who might be considered to be at risk of harm, manage to live their lives without experiencing harm. Often this is with the assistance of caring relatives, friends, paid carers, professional agencies or volunteers.

1.2 However, some people will experience harm such as physical harm, psychological harm, sexual harm or exploitation of their finances or property. The Adult Support and Protection (Scotland) Act 2007 was introduced to maximise the protection of adults at risk of harm and provide a concise legal framework to facilitate further the protection of adults at risk of harm through the measures contained in Part 1 of the Act.

1.3 This guidance has been developed collaboratively, by the local Adult Support and Protection National Guidance Implementation Group which had representatives from Social Work, Health, Police, Improvements and Quality, Scottish Fire and Rescue Service, and Third Sector, including Independent Advocacy. The Public Protection Committee are extremely grateful to the members of this group for their time and expertise.

1.4 This guidance and associated procedures have been informed by National ASP Guidance Suite including the revised ASP Codes of Practice 2022. As well as the West of Scotland Inter-Agency Support and Protection Practice Guidance 2019.

1.5 The guidance provides an overview of the process to support and protect when harm happens to an adult at risk and details the action to be taken by agencies when harm is identified in accordance with revised Code of Practice, and the actions that should be taken by the public agencies to meet their duties under the 2007 Act. It informs the development of single and multi-agency Adult Support and Protection procedures, processes and training and will support the protection of adults in Dumfries and Galloway. This includes:

- definition of harm and common indicators
- outlines guidance for intervention
- referrals and timescales
- the process of Inquiries (with and without powers)
- Investigations, risk assessment
- Case Conferences
- governance expectations on agencies
- escalation

1.6 There are other relevant pieces of legislation designed to support and protect adults at risk of harm which may be considered alongside the Adult Support and Protection (Scotland) Act 2007 such as the:

- Adults with Incapacity (Scotland) Act 2000 (the 2000 Act)
- Mental Health (Care & Treatment) (Scotland) Act 2003 (the 2003 Act)

- The Self-directed Support (Scotland) Act 2013

2. Aims of Guidance/ Scope

Aims

2.1 This document aims to assist in the prevention of harm occurring to adults who may be at risk of harm in Dumfries and Galloway, building on good practice and a common understanding of the issue.

2.2 To support adults who may be at risk of harm through having a joint understanding across each agency of:

- their roles and responsibilities in responding to reports of criminality or identified concerns involving adults at risk
- the duty of Public Bodies to cooperate
- the links between Child, Adult and Public Protection guidance
- the lead role of Social Work in Adult Protection
- the roles and responsibilities of all agencies in protecting adults that may be at risk of harm
- the role of each council where cross-boundary issues arise

2.3 In addition, this guidance:

- supports existing local operating procedures by providing a framework for the overall interagency response in terms of referrals, Inquiries, Investigations, actions and Case Conferences
- explains the role of Chief Officers' Group (COG) and Public Protection Committee (PPC)
- provides an understanding of the legal basis for intervention
- provides an understanding of the terminology used in Adult Protection
- shares the principles of good practice in Adult Protection

Scope

2.4 This guidance is for all practitioners working in health, Police, third sector, local authority or education settings who work with those adults who may be at risk of harm. The approaches set out depend on a culture and ethos which recognises that whilst there are specific responsibilities associated with certain professional roles, it is everyone's job to make sure that adults at risk of harm are supported and protected.

Multi-Agency Working

2.5 Partnership working is about mutual trust, sharing, communication and collaboration. It is marked by respect for one another, role divisions, right to information, accountability, competence, and value according to individual input. Research tells us that when there is positive and collegiate multi-agency working within public protection partnerships, collectively, services can significantly improve outcomes for our most vulnerable people in our communities.

2.6 All partner agencies must ensure that the staff group has an awareness of Adult Protection issues and a working knowledge of the system of reporting requirements. Social Work Services, as the lead agency on behalf of Dumfries and Galloway Council, will have overall responsibility for the co-ordination of Adult Protection Procedures and will be the central point for the receiving and logging of referrals.

2.7 All agencies working with adults must be mindful of the principles of benefit and the least restrictive option, seek to involve the adult in matters affecting him or her, including Adult Protection Inquiries, taking into account any communication issues, of the need to have support from relevant others and/or independent advocacy. The adult's views and wishes, both past and present and future must be acknowledged with due regard at all times.

3. Legal Context of ASP, Relevant Legislation and Strategies

3.1 The Dumfries and Galloway Multi-Agency ASP Guidance focuses on the 2007 Act, its related Code of Practice (2022) and the Scottish Government Guidance for Adult Protection Committees. Other legislation is equally important in the protection of adults at risk of harm. Consideration should be given to the links below.

Links to Legislation and Regulations

- Regulation of Care (Scotland) Act 2001
- Social Work (Scotland) Act 1968
- Human Rights Act 1998
- Data Protection Act 1998
- Adults with Incapacity (Scotland) Act 2000
- Community Care and Health (Scotland) Act 2002
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Mental Health (Scotland) Act 2015
- Adult Support and Protection (Scotland) Act 2007
- Protection of Vulnerable Groups (Scotland) Act 2007Public Health etc. (Scotland) Act 2008
- Sexual Offences (Scotland) Act 2009
- Offences (Aggravation by Prejudice) (Scotland) Act 2009
- Equalities Act 2010
- Domestic Abuse (Scotland) Act 2018
- Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011
- Self-Directed Support (Scotland) Act 2013
- Human Trafficking and Exploitation (Scotland) Act 2015
- Victims and Witnesses (Scotland) Act 2014
- Anti-social Behaviour, Crime and Policing Act 2014

- Children and Young Persons (Scotland) Act 2014
- Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (Part 2 – Duty of Candor & Part 3 – Ill-Treatment & Wilful Neglect)

Links to National Guidance

- Adult Support and Protection (Scotland) Act 2007 - Code of Practice 2022
- GP and Primary Care Team guidance
- Guidance for Adult Protection Committees

4. Principles of ASP

Principles

4.1 The principles must be taken into account at all stages of any intervention and emphasise the importance of striking a balance between an adult's right to freedom of choice and the risk of harm to that person. Any intervention must be reasonable, necessary, proportionate, and legal. A public body or office holder must be satisfied that any intervention will provide:

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

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

- the adult's ascertainable wishes and feelings (past and present).
- any views of the adult's nearest relative, primary carer, guardian or attorney and any other person who has an interest in the adult's wellbeing 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.
- the adult's abilities, background and characteristics.

Values

4.3 In general terms, the following values underpin any intervention in the affairs of adults deemed to be at risk and in need of protection under this multi-agency guidance:

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

- The welfare and safety of the adult takes primacy in relation to any Inquiry or Investigation.
- Every effort should be made to enable the individual to express their wishes and make their own decisions to the best of their ability recognising that such self-determination may involve risk.
- Where it is necessary to override the wishes of the adult or make decisions on his/ her behalf for their own safety (or the safety of others) this should be proportionate and least restrictive.

4.4 Partnership agencies subscribing to this guidance for the protection of adults at risk will also adhere to:

- actively working together within the value base of dignity, privacy, choice, safety, realising potential, equality and diversity.
- actively promoting individual choice and the wellbeing of adults at risk through service provision.
- actively work together within an interagency framework to provide the best outcomes for adults at risk.
- acting in a way which supports the rights of the individual to lead an independent life based on personal choice.
- recognising people who are unable to make their own decisions and/ or to protect themselves and their assets.
- Interventions should be legal, necessary and proportionate.
- Decisions should be defensible, recorded and have a clear rationale.

5. Measures, Definitions, Cross-Boundary Practice

Measures

5.1 The 2007 Act introduces measures to identify support and protect adults who may be at risk of harm whether as a result of their own or someone else's conduct. These measures include:

- a requirement that specified public bodies must inform and co-operate with councils and each other about Adult Protection.
- clarifying the roles and responsibilities of the public bodies in relation to Adult Protection.
- placing a duty on councils to consider advocacy or other services, as appropriate to an adult at risk. However, it is good practice that advocacy be considered in all circumstances.
- placing a duty on councils to make the necessary Inquiries and Investigations to establish whether or not further intervention is required to protect the adult.
- the establishment of Adult Protection Committees.
- a range of Protection Orders.

Definitions

5.2 The Adult Support and Protection (Scotland) Act 2007 provides the following definitions.

5.3 **Adults at Risk** - Persons aged 16 or over who:

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

5.4 **All three of the elements of the definition must be met** and are known as the **3-point criteria**.

5.5 A person cannot be classed as an adult at risk simply by virtue of the fact that they meet one element of the definition. An example of this is that of a person who has a disability. It is not intended that the definition of an "adult at risk" is so wide that it covers a disproportionately large part of the population.

5.6 An adult is at risk of harm if:

- another person's conduct is causing (or is likely to cause) the adult to be harmed, or
- the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm or neglect
- a person is seen to be attempting or threatening suicide; their personal wellbeing and safety is paramount.

5.7 **Harm** includes all harmful conduct and in particular includes:

- conduct which causes **physical harm** e.g. physical assault of punching, pushing, slapping, tying down, giving food or medication forcibly, denial of medication.
- use of medication other than as prescribed.
- inappropriate restraint.
- conduct which causes **psychological harm** (for example by causing fear, alarm, or distress)
- a change in behaviour which may indicate that the person is acting out of character and places themselves at risk by their own actions such as attempted suicide.
- unlawful conduct which appropriates or adversely affects property, rights or interests (for example theft, fraud, embezzlement or extortion) conduct which causes self-harm.

5.8 Harm can take many forms. These forms, in practice, may not exist in isolation but may overlap.

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

- excessive shouting, bullying, humiliation
- manipulation or the prevention of access to services that would enhance life experience
- isolation or sensory deprivation
- denigration of culture or religion

5.10 **Financial or Material** – involving the exploitation of resources and belongings of the adult at risk e.g., theft or fraud, misuse of money, property, or resources.

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

- incest
- rape
- acts of gross indecency
- inappropriate touching

5.12 **Neglect and Acts of Omission** – including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life such as nutrition, appropriate heating etc.

5.13 **Self-Neglect** - types of self-neglect include:

- Lack of self-care to an extent that it threatens personal health and safety
- Neglecting to care for one's personal hygiene, health or surroundings
- Inability to avoid self-harm
- Failure to seek help or access services to meet health and social care needs
- Inability or unwillingness to manage one's personal affairs

5.14 Also see: Self-neglect at a glance for signs and indicators.

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

- Are children involved who could be at risk of harm? If so, referral should be made to Children and Families via the Single Access Point.
- Are there other adults involved who may be at risk? If so, their needs may need to be considered.
- Is medical intervention required?

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

5.17 **Domestic Abuse** – behaviours including physical abuse, sexual abuse, isolating the survivor from family and friends, monitoring and regulating the survivor's activities, controlling their money and/ or activities, depriving them from their freedom of action, frightening, humiliating or degrading them, among other things. Domestic abuse occurs between partners or ex-partners and can be committed anywhere including the home, any public space or private property or online, including social media.

5.18 The similarity between the above and acts of harm in relation to Adult Protection is recognised. However, the key factor in relation to activating Adult Protection procedures in such situations is dependent on assessment of "adults at risk" as defined earlier.

5.19 **Trafficking** – the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation e.g., forced labour or prostitution.

5.20 **Modern Day Slavery** – the trading of adults and children for personal gain or profit, holding them against their will to provide forced or compulsory labour.

5.21 **Prostitution** – engaging in sex acts for money or other payment (this may not be through choice).

5.22 Forced Marriage **and Honour Based Abuse** – a marriage conducted without the full and free consent of both parties, and where "force" is a factor. Force can be coercion by physical, verbal or psychological means, threatening conduct, harassment or other means. Honour based abuse is a collection of practices used to control behaviour within families, communities, or other social groups, to protect perceived cultural and religious beliefs and/ or "honour".

5.23 **Online Abuse** – abuse that happens through the internet via phones, computers, and tablets. Examples of online abuse include:

- **Cyberbullying** – a type of bullying that happens online
- **Cyberstalking** – persistent unwanted contact from another person online
- **Domestic online abuse** – when someone stalks, harasses, threatens or controls their partner or ex-partner online.
- **Image-based abuse** – when an intimate image or video is coerced or shared without consent of the person in that image or video, eg revenge porn.

5.24 **Covert Medication** – when a person is given medicines without their knowledge or consent without appropriate professional assessment and safeguarding processes.

5.25 Suspicions of acts of harm, resultant harm or neglect can come to light in a number of ways. The clearest indicator is a statement or comment by the adult themselves, by their regular carer or by others, disclosing or suggesting

abuse or neglect. Such statements invariably warrant further action, whether they relate to a specific incident, and a pattern of events or a more general situation.

5.26 There are, of course, many other factors that may indicate abuse, harm, or neglect. These may include:

- unusual, unexplained, or suspicious injury
- failure to report illness, injury, deterioration in health or harm
- dubious or inconsistent explanations or injuries or bruises
- history of unexplained falls or injuries
- prolonged interval between illness/ injury and presentation for medical care
- the adult found alone at home or in a care setting in a situation of serious but avoidable risk
- the adult lives with another member of the household who is known to Police, Social Work, or Health agencies as likely to present a risk to the adult
- signs of misuse of medication, non-administration, or over/ under medicating
- unexplained physical deterioration in the adult e.g., loss of weight
- sudden increases in confusion e.g., dehydration, toxic confusion
- demonstration of fear by the adult to another person within the home or if returning home
- difficulty in interviewing the adult at risk of harm due to the insistence or presence of another
- anxious or distressed behaviour on the part of the adult
- hostile or rejecting behaviour by the carer towards the adult or professional
- indicators of financial abuse e.g., unexplained debts, reduction in assets, unusual interest in adult by family members, pressure from others to admit adult into care, refusal to consider appropriate care due to financial cost, misappropriation of benefits, fraud, or intimidation in connection with wills or assets.

5.27 Adults may be at risk of harm from a wide range of people. Agencies not only have responsibility to all adults at risk of harm and subject to harm but also may have responsibility e.g., towards agencies or people with whom the perpetrator is employed or works as a volunteer. There is particular concern when abuse is perpetrated by someone in a position of power or trust who uses his or her position to the detriment of the health, safety, welfare, and general wellbeing of an adult at risk. The roles, powers, and duties of the various agencies in relation to the perpetrator will vary depending on whether the latter is:

- a member of staff or proprietor

- a member of a recognised professional group
- a volunteer
- another person using the same service
- a spouse, relative or member of the adult's social network
- a paid or unpaid Carer
- a neighbour, member of the public or stranger
- a person who deliberately targets vulnerable people to exploit them

5.28 Harm can occur in any context or setting, including:

- where the adult lives alone or with a relative
- within a residential or day care setting
- hospital
- custodial settings
- support services into people's homes

5.29 Assessment of the environment or context is vital because exploitation, deception, misuse of authority or coercion may render the adult unable to make his or her own decisions or disclosing abuse even though they are deemed to have "capacity" or have not been assessed as lacking capacity.

5.30 Harm within institutional settings may feature one or more of the following:

- poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing, and insufficient knowledge base within the service,
- unacceptable "treatments" or programmes which include sanctions or punishment such as withholding food or drink, seclusion, unauthorised use of control and restraint, and over-medication,
- failure of agencies to ensure that staff receive appropriate guidance on anti-discriminatory practice,
- failure to access key services such as health care, dentistry, prostheses.

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

5.32 The **Council Officer** – the 2007 Act defines a "Council Officer" as a person who is an employee of the Council and who is appointed by a Council under Section 64 of the Local Government (Scotland) Act 1973. Within Dumfries and Galloway Council, Council Officers will be professionally qualified and registered Social Workers who have the knowledge, skills, and experience necessary to undertake the functions set out in the 2007 Act.

5.33 A Council Officer will have at least 12 months experience and will undertake formal investigations and progress any application for protection measures as set out in the Act. A Council Officer must have specific training for this role, which is provided by Dumfries and Galloway Council. This is available for Social Workers who are qualified for a year and will provide the training for the role and function of a Council Officer. Refresher training is also available for

Council Officers on a 3 yearly basis. A Social Worker must have this training to undertake Council Officer functions.

5.34 In order to make inquiries, Council Officers may carry out visits, conduct interviews, and can request relevant records to be produced in respect of an adult at risk. They may undertake this activity along with an appropriate colleague or worker from a relevant agency.

5.35 An **Adult Support and Protection Inquiry** is the process undertaken by Social Work, with or without investigatory powers, to gather information in respect of establishing an adult's welfare and circumstances. It may involve contact with other agencies and initial contact with the adult in question. An Inquiry may determine that an adult is or is not at risk of harm or whether further actions are required to establish this.

ASP Cross Boundary Cases

5.36 Regardless of where harm occurred, an adult at risk should be provided with the same level of support and protection. In relation to cross boundary cases best practice guidance has been developed and subsequently ratified by Social Work Scotland.

5.37 In respect of local arrangements for the management of cross boundary cases Section 53(1) of the Adult Support and Protection (Scotland) Act 2007 states that Adult Protection duties are held by the council in which the Adult at Risk of Harm 'is for the time being in'.

5.38 Where there are resource implications reference should be made to Scottish Government Ordinary Residence Guidance.

Investigations in Host Authorities

5.39 If an Adult Protection referral is received regarding a person who is residing in a care setting in another local authority but who is ordinarily resident in, and funded by Dumfries and Galloway, it is the responsibility of the 'host' authority to lead the Inquiry and subsequent Investigation, where required. It is the 'host' authority's responsibility to inform us of the Adult Protection referral at the earliest opportunity. Respective roles should then be discussed and clarified but it is expected that Dumfries and Galloway staff will be actively involved in any formal Adult Protection Investigation, case discussion/ Case Conference if required and protective care planning to ensure the adult's safety and wellbeing. Whilst Dumfries and Galloway will not normally lead on the investigation, the participation of staff at the level of Council Officer or above would be considered best practice. Ensure that the Care Inspectorate has been informed of the referral and that its involvement in the investigative process is recorded.

Investigations Within Care Settings in Dumfries and Galloway

5.40 When an Adult Protection referral is received from a care setting within Dumfries and Galloway, checks should immediately be made regarding the funding arrangements for the resident. Should the resident be funded by Dumfries and Galloway Council, Council Officers should proceed with Inquiries, and if required, subsequent Investigation. Council Officers should

advise the Care Inspectorate of the referral and negotiate appropriate involvement by Care Inspectorate staff.

5.41 Should the resident be funded by another council, contact should be made with the funding authority to advise of the referral. Dumfries and Galloway Council will remain the 'host' authority and Council Officers from Dumfries and Galloway should normally lead any Investigation unless the funding authority negotiates transfer of this responsibility. Any agreement reached regarding which authority leads an Investigation must be taken at the level of an Operational Manager or above.

The Importance of Advocacy

5.42 The Council has a duty to have regard to the importance of the provision of appropriate services such as independent advocacy to the adult concerned, including uninstructed advocacy for adults who lack mental capacity, which may assist a clearer understanding of the adult's wishes and feelings, particularly in relation to the gathering of information at the Inquiry/ Investigation stage and to support at the Conference stage if required.

5.43 Advocacy services can also assist if there is a need for the services of a solicitor for the adult and that the adult has a difficulty in accessing local legal advice. The Scottish Law Commission can be contacted to advise of the difficulty and if required, can identify a named solicitor/ legal firm to assist the adult.

Legal Orders

5.44 If Protection Orders are being considered a solicitor from the Council's Legal Services must be informed and actively involved in the process, if possible, via attendance at an ASP Case Conference. If Protection Orders are not being applied for on an emergency basis, the need for application to the Sheriff should be evidenced and minuted within the multi-agency ASP Case Conference with a solicitor from the Council's Legal Services being informed and actively involved in the process.

5.45 Pursuit of any legal orders set out in the Act led by the Council must meet the legal test, there must be enough detail in the court application and that detail must come from the case notes and the caseworker.

Banning Orders

Assessment Order

Removal Order

5.46 Please note that the Assessment Order, Removal Order and Protection Order do not have the power of detention.

6. A Public Protection Approach, The Public Protection Committee, Chief Officers' Group (COG) and Learning Reviews

Adult Support and Protection Governance Arrangements

6.1 Adult Support and Protection sits within the Public Protection arrangements and is governed by a multi-agency partnership overseen by the COG (Public Protection).

6.2 The vision for Public Protection in Dumfries and Galloway is to work together to protect Dumfries and Galloway's most vulnerable people. This includes Adult Support and Protection, Child Protection and Violence Against Women and Girls.

Role and Responsibilities of the Public Protection Committee

6.3 The Public Protection Committee assumes the functions for Adult Protection and support as set out in the 2007 Act as follows:

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

6.4 In doing this, the Public Protection Committee performing these functions, must have regard to the promotion and support of cooperation between each of the public bodies. The public bodies involved are the council, the Care Commission, the Health Board, Police Scotland, and any other public body as required.

6.5 Dumfries and Galloway Council are responsible for appointing an Independent Chair and members of the Public Protection Committee. Membership must include nominated representatives from NHS Dumfries and Galloway and Police Scotland. Social Care and Social Work Improvement in Scotland (SCSWIS), formerly known as The Care Commission, also has the option to nominate a representative. Other members are appointed based on their relevant knowledge and skills. Committee procedures must also allow representatives of the following bodies to attend meetings:

- the Mental Welfare Commission for Scotland
- the Public Guardian;
- the Care Inspectorate (where a representative has not already been nominated to be a member); or
- any other public body or office holder that Scottish Ministers may identify

Roles and Responsibilities of the COG

6.6 The role of the COG (Public Protection) is to work collectively to identify and commission interagency activity with respect to supporting and protecting adults at risk in Dumfries and Galloway. This will be taken forward by the

Public Protection Committee and monitored by the Chief Superintendent (V Division, Police Scotland), Chief Executive (NHS DG), Chief Executive (Dumfries and Galloway Council), and the Chief Operating Officer Dumfries and Galloway Health and Social Care Partnership, with professional advice from the Chief Social Work Officer. The role of the COG will be to meet quarterly with the Chair of the Public Protection Committee to review progress and outcomes in line with the current Public Protection Strategic Plan.

7. Learning Reviews

7.1 Criteria for adults:

Where the adult is, or was, subject to adult support and protection processes and the incident or accumulation of incidents gives rise for reasonable cause for concern about how professionals and services worked together to protect the adult from harm, and one or more of the following apply:

(i) **The adult at risk of harm dies** and

a) harm or neglect is known or suspected to be a factor in the adult's death;

b) the death is by suicide or accidental death;

c) the death is alleged murder, culpable homicide, reckless conduct, or act of violence.

Or

(ii) **The adult at risk of harm has not died but is believed to have experienced serious abuse or neglect.**

Where the adult who died or sustained serious harm was not subject to adult support and protection processes

(i) When the findings of an inquiry or review by another organisation or court proceedings, or a referral from another organisation gives rise to reasonable cause for concern about lack of involvement in relation to the Adult Support and Protection (Scotland) Act 2007.

Or

(ii) **The Public Protection Committee** determines there may be learning to be gained through conducting a Learning Review.

7.2 The overall purpose of a Learning Review is to bring together agencies, individuals and families in a collective endeavour to learn from what has happened in order to improve and develop systems and practice in the future and thus better protect children, young people and adults at risk of harm.

7.3 Any member of the PPC, agency or practitioner can raise a concern about circumstances which it is believed meets the criteria for a Learning Review. The concern should be discussed with the Multi-Agency Safeguarding Hub (MASH) Managers and the appropriate Public Protection Lead Officer.

7.4 For further information please refer to Undertaking Learning Reviews (Children and Adults) Local Guidance and Adult Support and Protection: Learning Review Guidance (www.gov.scot)

CHAPTER 2 – ADULT PROTECTION REFERRALS – DUTY TO REPORT

1. ASP Referral Process

1.1 Referrers should consider their own agency's ASP and referral procedures in the first instance.

1.2 All referrals, including anonymous referrals, should be taken seriously. Cases must be considered with an open mind without assuming that harm has, or has not, occurred.

1.3 Referrals should be sent to the local authority where the adult is currently present (host authority).

1.4 Where harm has occurred out with the host authority it is still the host authority's responsibility to carry out all necessary inquiries. It is expected that the host authority will contact the local authority where the person normally resides to alert them to the Adult Protection Referral.

1.5 Following the initial Inquiry both councils will enter into negotiations on how best to take forward the Adult Protection Referral.

1.6 In Dumfries and Galloway all ASP Referrals go via the Single Access Point (Tel: 030 33 33 3001, email: Accessteam@dumgal.gov.uk or if out of hours: Tel: 030 33 33 3001, email: socialworkoutofhours@dumgal.gov.uk). ASP Referrals commence processing within 1 working day of the concerns being received.

Duty to Report

1.7 Public agencies have a duty to report any suspected or actual harm to an adult at risk. This should occur within 1 working day of the concerns being noted.

1.8 The 2007 Act and Code of Practice (2022) states that certain bodies and office holders must, so far as is consistent with the proper exercise of their functions, co-operate with a council making inquiries under Section 4 of the Act.

1.9 The bodies and officeholders listed in Section 5 of the Act are:

- The Mental Welfare Commission for Scotland;
- SCSWIS (The Care Inspectorate)
- Healthcare Improvement Scotland
- Office of the Public Guardian;
- All Councils;
- Chief Constable of Police Scotland;
- The relevant Health Board, and
- Any other public body or officeholder as the Scottish Ministers may by order specify.

1.10 Where a named public body or officeholder knows or believes that a person is an adult at risk and action needs to be taken in order to protect that person from harm, then that public body or officeholder must report the facts and circumstances of the case to the council for the area where they believe the person to be located. Staff should also be clear who they have a duty to report to within their own organisations.

2. Voluntary and Private Sector

2.1 Whilst the 2007 Act does not give voluntary and private sector providers the same duty of cooperation, the Code of Practice (2022) states

2.2 *"While independent organisations do not have specific legal duties or powers under the Act, care providers have a responsibility to involve themselves with the Act where appropriate by making referrals, assisting inquiries and through the provision of services to assist people at risk of harm. These organisations should discuss and share with relevant statutory agencies information they may have about adults who may be at risk of harm.*

2.3 *These providers and other service provider, user and carer groups may also be a source of advice and expertise for statutory agencies working with adults with disabilities, communication difficulties or other needs. Organisations will have a legal duty to comply with requests for examination of records, as it is an offence to fail to do so without reasonable excuse (section 49(2) of the Act).*

2.4 *Councils may wish to review their contract agreements with the independent and third sector providers to ensure that their services are consistent with the principles of this Act."*

2.5 Legislation allows information to be shared in specific circumstances and agency procedures should be clear on the procedures to follow where adult [or child] protection concerns have been identified.

2.6 Voluntary and private sector agencies area are expected to report Adult Protection concerns within the same timescales as public bodies i.e. referrals should be made within one working day using the referral process. The organisation should also notify the Care Inspectorate and their council's contracts/ commissioning section.

Commissioned Services

2.7 The service works with a range of commissioned services which are overseen and monitored by the Joint Planning and Commissioning Team, Health and Social Care partnership. The responsibilities of Commissioned Services in respect of Adult Support and Protection should be reflected in any contracts and reinforced through self-evaluation and contract monitoring. This includes the need to:

- establish procedures for the protection of adults at risk which are consistent with Dumfries and Galloway protocol;
- provide information and assistance to Council Officers;

- participate in the joint working arrangements as defined in Dumfries and Galloway protocol.
- report incidents of actual/ suspected harm or self-neglect to Social Work Services and where appropriate to the Police and the Care Inspectorate.

2.8 Adults and carers need to be assured that where they are receiving care and/ or support services, these will be compliant with current legislation and good practice for the protection of adults at risk of harm and that all allegations involving adults at risk of harm in care settings will be investigated.

2.9 Commissioned services are expected to follow rigorous recruitment practices in relation to both employing staff and in the selection of volunteers; provide supervision and monitoring of staff working with adults at risk and to have internal operating procedures and guidance for all staff that set out the responsibilities of all staff in respect of Adult Support and Protection as well as Adult Support and Protection awareness and procedure training for all staff and volunteers.

2.10 This will include all roles within the protocol and procedures. Commissioned services should:

- refer concerns about the adult at risk to Social Work through the Single Access Point through an Adult Protection Referral form (AP1)
- keep clear and accurate records
- undertake risk assessments
- share relevant information in relation to any Inquiry/ Investigation under ASP legislation participate in the joint working arrangements as defined in this protocol.
- implement preventative and/ or supportive action to adults at risk.

3. Emergencies or Where a Crime May Have Been Committed

3.1 If a person is in immediate danger contact emergency services on 999, particularly if an adult at risk appears to be in immediate need of medical attention or if there is evidence of physical or sexual harm.

- Report to the Police if you suspect a criminal act has taken place or is likely to take place
- Staff must be aware of the need to preserve evidence
- Staff should not put themselves at risk
- Follow up contact should be made with the Health and Social Care Partnership, and
- an Adult Support and Protection referral form submitted within one working day.

3.2 Uncertainty about consent and capacity should not prevent the provision of urgent medical assistance or contact with the Police. For all non-emergency inquiries contact Police Scotland on 101. Should an adult need medical assistance (not 999) this should be arranged via NHS24 on 111 or their GP in-keeping with Duty of Care.

4. Is the Adults Consent Required Before Making a Referral?

4.1 The adult's consent is not required for you to make a referral under the Act. If possible, inform the adult that their concerns will be reported to your line manager and the Police where a potential crime has been committed and that these will be recorded.

4.2 While the adult's consent should usually be sought before the Police are contacted, remember that adults at risk of harm are individuals in their own right and must be allowed to exercise their right to choose the way they live their life, unless:

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

4.3 Voluntary and private sector agencies are usually required to report actual or suspected harm of an adult at risk under their contractual agreement. When making a referral to the Police or Social Services they should be advised if the adult has consented to the referral or not.

Capacity

4.4 The law in relation to adult capacity (i.e., anyone over the age of 16) makes a distinction between those who are capable of making decisions and managing their own affairs and those who are not. Social Work Services consider capacity and incapacity in every referral they receive including referrals relating to adults at risk of harm when deciding the most appropriate action to support or protect the adult. If there is a concern that the adult may lack capacity to make decisions about welfare or financial matters this should be detailed in the referral.

5. Confidentiality and Information Sharing

Sharing Information and Consent

5.1 The Data Protection Act 1998 sets out the terms under which sensitive personal information can be shared without consent. All agencies should have information sharing procedures in place and staff should follow these when disclosing information without consent.

5.2 Information sharing is permitted:

- to protect the vital interests of the data subject or another person, for the administration of justice, or
- for the exercise of any functions conferred on any person by or under an enactment, or for medical purposes.

5.3 NHS Dumfries and Galloway are required to ensure that all staff members are aware of, and operate, local procedures for sharing of information with the Police to promote the prevention and detection of crime, while respecting and safeguarding the interests of patients and the public in the confidentiality of personal health information.

5.4 Whilst confidentiality is important, it is not an absolute right. Co-operation in sharing information is necessary to enable a council to undertake the required Inquiries and Investigations.

5.5 Information should only be shared with those who need to know and only if it is relevant to the particular concern identified. The amount of information shared should be proportionate to addressing that concern. Adults who may be subject to harm may be anxious about the information being shared with others. It is the record holder’s responsibility to determine what information should be passed to the Council Officer.

5.6 There may be some areas of crossover between Child Protection and Adult Protection information, particularly when dealing with families, where there may be children and adults at risk.

5.7 Where there is a concern about an adult at risk of harm or you are made aware of such a concern, agencies have a responsibility to share and exchange relevant information with other professionals. This should be done without delay (within 24 hours) and with confidence, following your own agency/ service procedures.

5.8 All staff should be aware that their own agency will support them if they have shared personal information in these circumstances using their professional judgement.

5.9 Previous Learning Reviews have highlighted misconceptions about information sharing. Existing legislation does not prevent the sharing and/ or exchanging relevant information where it is believed there are concerns about the protection of adults at risk of harm. In addition, agencies are lawfully able to share confidential information where disclosure is necessary to protect the individual or another third party. This extends to all practitioners working with adults who may be self-harming or neglecting themselves.

5.10 It is important that we are open and transparent and make people aware that we will share information when we suspect an adult is at risk of harm. It is also important that staff record any decisions to share or not to share information and their reasons for doing so.

5.11 For further advice and guidance staff should speak directly with their supervisor/ manager or with their organisation’s Data Protection expert.

6. Harm From Staff to an Adult at Risk

6.1 All agencies should have an Adult Protection policy and/ or disciplinary procedure that takes account of harm occurring from a paid [or volunteer] member of staff. In all cases agencies should follow this procedure while recognising that Social Work Services/ Care Inspectorate and/ or Police may also be involved dependent on the nature of the harm alleged or evidenced. Agencies should work together to ensure that information is shared and that actions taken are coordinated and managed appropriately.

7. Referrals/ AP1

7.1 The collation of relevant information on a referral is crucial for the application of professional judgement. Wherever possible, information should be sought and recorded at the point of referral. If it is practical, describe the concerns as detailed by the adult.

7.2 While phone call referrals will be accepted from any agency, a written referral form should be completed within one working day and passed to Social Work Services. Agencies should use the AP1 to make a referral to Social Work Services.

7.3 However, some public bodies have their own nationally agreed ASP referral forms such as Police Scotland, Scottish Ambulance Service, Scottish Fire and Rescue Service and the NHS. If you do not have all the information asked for in the form do not delay sending the referral to Social Work Services who will gather any further information as part of the ASP Inquiry process.

Screening and Triaging Referrals

7.4 The detailed procedure for screening and triaging referrals is set out in the Single Access Point Operating Procedures and the Adult MASH Standard Operating Procedures.

7.5 All referrals are dealt with by the Single Access Point and screened on the basis of the level of concern. All high-risk concerns are directed immediately to the Multi-Agency Safeguarding Hub (MASH). Where concerns do not require an ASP response, they will be directed to Social Work localities teams for Social Work support or closed if no further action is required.

7.6 Referrals received by the MASH will be triaged based on immediate risk of harm and level of concern and appropriate action taken to safeguard an individual or commence initial inquiries under a Duty to Inquire, based on reference to the 3-point criteria and the information provided in response to the 7 questions.

7.7 The 7 questions should be considered, when gathering information at each of point contact and at each stage of the Investigative process:

1. What worries do you have that made you call us today?
2. How safe is the adult?
3. How safe do you think they will be tonight and tomorrow if nothing changes?

4. How long have you been worried about this adult?
5. What are you most worried about
6. What have you done to help?
7. What do you think given what you know this adult could be done to help?

7.8 Referrers should follow their own agency procedures for case recording.

8. Initial Referral Discussions (aIRDS)

8.1 If a concern is of an immediate serious nature an aIRD (Adult Initial Referral Discussion) may be called by the MASH. An IRD should be called if:

- the person is at immediate harm and significant risk of harm;
- there is an accumulation or escalation of concern which indicate risk of significant harm;
- there is a complex situation in which multi-agency assessment and discussion is required to aid decision-making.

8.2 If a person is in a place of safety i.e. a hospital or care environment, it should not be automatically assumed that the risk is being managed. It may be beneficial for the Adult MASH Social Work team to complete initial checks to gather further information before a decision is made to progress to IRD.

9. Chronologies

9.1 It is widely recognised that people are most effectively safeguarded when professionals work together and share information. Individual events may appear to be insignificant 'one-offs'. However, they should be recorded in a chronology as they may be part of a pattern, which would raise serious concern. Good practice when making an ASP referral is to update and share a single agency chronology.

CHAPTER 3 - ADULT PROTECTION INQUIRIES

1. Adult Protection Inquires – a Multi-Agency Approach

Multi-Disciplinary Approach to Inquiries

1.1 Many different professionals in statutory agencies and other organisations have contact with adults at risk of harm including Social Workers, medical and nursing staff and other health professionals, staff delivering care services, Procurators Fiscal, the Police and staff of voluntary organisations. A multi-agency and multi-disciplinary approach is therefore appropriate and is in place in Dumfries and Galloway. This is supported by our Multi-Agency Safeguarding Hub (MASH).

2. Children, Council Duty to Inquire, Emergency Action

When Should a Council Make Inquiries?

2.1 Section 4 of the Act places a duty on Dumfries and Galloway Council to make inquiries about a person's wellbeing, property or financial affairs if it knows or believes:

- that the person is an adult at risk; and
- that it might need to intervene (under the Act or otherwise) in order to protect the person's wellbeing, property or financial affairs.

2.2 Inquiries under Section 4 of the Act will be carried out by Social Work Services and should follow Adult Protection procedures. The council may consult and/ or work in partnership with other agencies to conduct inquiries. Other professionals, such as the Police, the Care Inspectorate or health professionals may be asked to assist.

Council's Duty to Inquire Under 2007 Act (Section 4)

2.3 On receipt of a phone call or Adult Protection Referral Social Work Services are required to make inquiries under the Act. A Duty to Inquire should be started within 2 working days of the receipt of the referral and completed within 7 working days. If there is an allegation of physical or sexual harm, or there are major concerns regarding the harm issues being raised, inquiries must commence immediately. The Police must be contacted in the first instance if staff know or believe a crime may have been committed and agreement made on how best to proceed. Given that the adult must be visited, and if possible, seen alone within 24 hours, it is important that this forms part of Police discussions from the outset.

Adult Support and Protection Inquiries

2.4 Inquiries should begin within 2 working days of the referral being received and completed within seven working days.

2.5 The responsible Social Work Manager will review the referral to decide if:

- Immediate action is required in relation to the adult deemed to be at risk to make them safe.

And/ or

- If the case needs to progress to an Investigation.

2.6 As part of this process Social Work Services should:

- acknowledge receipt of referral. (This will be an automated return email receipt)
- decide if medical intervention is required
- maintain multi-disciplinary liaison during inquiries
- inform other external agencies of the referral e.g. Care Inspectorate, Police etc. if appropriate.
- offer appropriate support to the external agency/ referrer
- consideration must be given to other relevant legislation, where appropriate for example, Adults with Incapacity or Mental Health Care and Treatment Act.

Duty to Inquire

2.7 If the outcome of screening is that further inquiries need to be made, to establish if the 3-point criteria are met, then a Duty to Inquire will be opened. This is led by Social Work ASP Team who will gather all available information and will complete the DTI. These are considered inquires without the use of investigatory powers. Use of powers within Section 7–10 of the Act is referred to as inquiries with use of investigatory powers.

Capacity

2.8 Capacity and referrals have already been considered. A thorough assessment of capacity, whatever the outcome, can be crucial and may add to the complexities of an assessment. An adult may have capacity in one area of daily life and lack the capacity to make safe decisions in another. The worker would be looking at whether someone has the cognitive ability to understand the decisions they are making (not taking action is also classed as a 'decision') and risks they may be taking in relation to keeping themselves safe from 'harm' as defined within the Act. Capacity applies both to decision-making and the implementation of decisions (Code of Practice).

2.9 The Code of Practice suggests that the following factors should be considered in relation to Interviews under ASP - where there is doubt about the adult's capacity:

- does the adult understand the nature of what is being asked and why?
- is the adult capable of expressing his or her wishes/ choices?
- does the adult have an awareness of the risks /benefits involved?
- can the adult be made aware of his/ her right to refuse to answer questions as well as the possible consequences of doing so?

2.10 A lack of capacity to consent to being interviewed is not an automatic bar on the adult participating in the interview process. The principle of the adult participating 'as fully as possible' through supported decision-making should be considered. In addition, if the adult is thought to have been influenced to refuse consent, consideration should be given to whether there has been "undue pressure" applied and therefore a need to consider application for an Assessment Order.

2.11 Where capacity to consent to interview is uncertain and direct intervention is deemed necessary to protect an adult, medical advice should be sought.

2.12 Should the adult lack capacity, intervention under the Adults with Incapacity Act 2000 should be considered. Should there be a diagnosable mental illness present affecting an adult's ability to keep him/ herself safe from harm, consideration should be given to intervention under the terms of the Mental Health (Care and Treatment) (Scotland) Act 2003. As stated above any intervention should be of benefit to the adult and the least restrictive to the adult's freedom. However, it should also be noted that even if an adult lacks capacity, Protection Orders under the terms of the ASP Act can be applied for. There may also be circumstances where intervention is required utilising, concurrently, more than one piece of mental health legislation.

Duty of Care

2.13 There are circumstances where an adult at risk declines to participate, an adult may appear to meet the criteria of an 'adult at risk' under the terms of the Act but indicates that he/ she does not want support and/ or protection. In effect, the adult refuses to cooperate with inquiries being undertaken (Code of Practice).

2.14 Such a refusal to cooperate does not absolve the council and its partners of responsibilities to make inquiries about the adult's circumstances and the degree of risk. Any inquiries should consider the adult's capacity to understand the risks they are exposed to and the possible consequences of their refusal to cooperate; 'undue pressure' might have contributed to their decision to refuse cooperation, or the adult may not have had opportunities to see any changes to their situation.

2.15 Even if there are no concerns in relation to incapacity or undue pressure, the adult's refusal to cooperate in an Adult Protection Inquiry does not automatically signal the end of an Inquiry, assessment, or intervention.

2.16 Whilst the adult has a right not to engage in any such process, the council and its partners should still work together to share information, offer any advice, assistance, and support to help manage any identified significant risks. It is recognised the success of any intervention where an adult does not wish to cooperate may, by its nature, be limited in scope and effectiveness. Any assistance should be proportionate to the risk identified and any need to support carers' needs should be considered. It is the Council Officer's role to gather information to record within the ASP, but it is a multi-agency role to offer advice and assistance and support.

2.17 Section 8(2) of the ASP Act states that any person who is to be interviewed in relation to Adult Protection concerns must give consent to being interviewed and to answering questions, and that this should be made explicit by the Council Officer throughout the ASP process.

2.18 The Code of Practice states: 'seeking the consent of the adult to be interviewed is a more proactive approach than simply advising the adult that he/ she is not obliged to answer questions. The point is to ensure that the adult is given reasonable opportunity and encouragement to answer their questions whilst respecting their right not to'. The clear implication of this statement is that Council Officers should be able to use interpersonal skills, engagement skills, listening skills and analytical skills to reassure and enable the adult to discuss expressed concerns.

2.19 Where the adult withholds consent, a judgement must be made regarding undue influence by another person. If the view is taken that an adult has refused to give consent through fear and/ or intimidation and there is evidence to suggest that an adult is at risk of, or subject to harm, an application for a Protection Order can be considered, either on the basis of urgency to protect an adult or an outcome from an ASP Case Conference. Consideration may be given to the use of a Protection Order as defined within the legislation: Assessment Order; Removal Order or Banning Order.

Trauma

2.20 Consider the impact of trauma exposure on an individual's biological, psychological and social development and may impact on their ability keep themselves safe and develop trusting relationships with professionals. Practitioners should retain a trauma informed approach when considering reason for an adult not engaging and remain alert to possibility of undue pressure. Sign up to the TURAS platform for more training material.

Where There is Subsequent Police Involvement

2.21 Where it is decided that a criminal investigation is required, the Police will undertake this. The Police will decide if a referral to the Procurator Fiscal is appropriate. Social Work Services and the Police should liaise over action necessary to protect the adult at risk during a Police investigation. However, Social Work Services will continue to support the adult at risk and any relevant others in coordinating and monitoring any agreed protection planning.

Are There Any Children Involved?

2.22 All agencies have a responsibility to consider the needs of any child who may reside or have contact with an adult(s) involved in any form of harm. The responsible Social Work Manager will inform Children and Families Social Work Services and a decision made if Child Protection procedures should also be initiated. Agencies with concerns that relate both to children and adults should state this at the point of referral to the SAP.

2.23 During the conduct of an Adult Protection Inquiry or Investigation where any Child Protection concerns arise, action must be taken under Dumfries and

Galloway Social Work Services Child Protection Procedures to ensure the immediate and future safety and wellbeing of the child/ children.

Transition from Child Care to Adult Care

2.24 The Dumfries and Galloway Child Protection Single and Multi-Agency Procedures offer staff a procedural framework within which to meet the needs of children, to be responsive and to involve children and their carers at all times in the process. The procedures allow for the exercise of professional judgement, to ensure that the protection and welfare of children is paramount.

2.25 The 2007 Act makes provision for adults aged 16 and over. However, the legal boundaries of childhood and adulthood are variously defined (Scottish Government 2021, The National Guidance for Child Protection, p8). The National Guidance states that Child Protection procedures may be considered for a person up to the age of 18. Whenever a child aged 16 or over is subject to legislation under the Children (Scotland) Act 1995 or the Children's Hearings (Scotland) Act 2011, then discussion between the relevant Children and Adult Social Work teams will identify the most appropriate service route.

2.26 The priority is to ensure that a vulnerable young person who is, or may be, at risk of significant harm is offered support and protection.

2.27 In Dumfries and Galloway, all protection issues for 16 and 17-year-olds are considered within Child MASH (Multi-Agency Safeguarding Hub). Services will need to consider which legal framework best fits each person's needs and circumstances.

2.28 In the exceptional circumstances of a 16–17-year-old already working with adult services, the referral should still be routed through Children and Families Social Work, who will liaise with relevant Adult Services colleagues. Any 16-17-year-old needing a safeguarding response will be discussed at Child MASH.

2.29 If a Child MASH discussion is taking place and it is felt the discussion would benefit from some Adult Care expertise, Adult MASH colleagues can be invited to join the discussion. Consideration of a joint child and adult IRD will be made by MASH where appropriate.

2.30 When a child is approaching adulthood and remains under Child Protection, circumstances should be assessed on an individual basis between Children and Families, and Adult Care Managers. For all children approaching 18, contact should be made between the Senior Social Workers who will have the responsibility to identify the appropriate member of the team to attend the Child Protection Planning Meetings and any subsequent Child Protection Planning Meeting. It is acknowledged that there will be overlap between Child and Adult Protection. Assessment and planning processes may need to be aligned and some investigations and assessments may be best undertaken jointly, for example when Child and Adult Protection issues are identified within the same family.

Support for Unpaid Carers

2.31 It may be that the adult's carer requires support to enable them to continue to support the adult. The Community Care and Health (Scotland) Act 2002 amends the Social Work (Scotland) Act 1968 to give carers a right to have their carer needs assessed by the council. The Carers (Scotland) Act 2016 gives carers the right to an Adult Carer Plan or Young Carer Statement. It would be good practice to bring this assessment right to the notice of any carer providing a substantial amount of care where the carer appears to have unmet caring needs.

3. Care Inspectorate

Initial Inquiries

3.1 Registered Care Services must separately notify the Care Inspectorate and Dumfries and Galloway Council's contracts department using an e-notification referral system or by telephone when an allegation or evidence of harm is received which may involve one or more service users. If a verbal referral is made this should be followed up with an e-notification to ensure an audit trail for tracking incidents.

3.2 The Care Inspectorate should discuss the outcome of any intervention or risk assessment they carry out with the responsible Social Work Manager and/ or Contracts Section to clarify whether any regulatory action is required from the outset.

3.3 If considering possible regulatory action, discussion should be held with the council involved and where appropriate, the Police and/ or Procurator Fiscal to ensure that any Care Inspectorate activity will not interfere with ongoing Investigations.

3.4 The Care Inspectorate will complete and submit an ASP referral to Social Work Services as required under the Act following ASP allegations and complaints that come to them. Social Work Services will undertake inquiries and inform the Care Inspectorate of the outcome.

4. Inquiry Decision and Possible Outcomes

Conclusion of Inquiry and How to Proceed

4.1 The responsible Social Work Manager will decide - using information gathered from the Inquiry, professional judgement, liaison with other agencies and evidence-based practice - on how best to proceed with the referral.

Possible Outcomes of an Inquiry

4.2 There are 3 possible outcomes of an Inquiry.

(i) The adult at risk criteria are not met and no further action under Adult Protection is required.

However, this does not absolve agencies of their responsibilities and other actions could be appropriate such as:

- Refer for assessment under Self-Directed Support.
- Consider other appropriate legislation.
- Where an open case review existing risk assessment and risk management plan.
- Refer to another more appropriate agency.
- Case closed as no further action required.

(ii) The adult at risk criteria are met under the Act and an Investigation is required.

If a decision is reached that further action is to be undertaken under the Act, then the following actions must be recorded and actioned by the responsible Manager in Social Work:

- Agree who will be the 'Council Officer' to lead the Adult Protection Investigation, and who will be the second person involved.
- Agree the plan and timing for the Adult Protection Investigation including consideration of advocacy and other services, any communication needs, and involvement of other appropriate services e.g. Health, Children and Families Services, Legal Guardian, services for black and minority ethnic groups as well any other requirements that would facilitate the Investigation.

(iii)The adult at risk criteria are met but declines intervention

Where an adult has capacity and meets the criteria of the Act but indicates that they do not wish support, this does not absolve the council and partners of their responsibilities to cooperate and consider protective measures for the adult. While the adult has the right not to engage with the process, the appropriate partners should still meet to consider what action could be taken in the best interest of the adult at risk of harm; this could include a Care or Protection Plan or advice or support with the individual where possible, to manage identified risks. Therefore, it may be that Social Work Services will continue further Investigation without the adult's consent or involvement.

Planning Meeting

4.3 A planning meeting is an opportunity for professionals across the multi-agency field to share information and agree on how best to support and protect the adult at risk. A planning meeting can occur at any time in the Adult Protection process.

Outcomes

4.4 Best practice would be that referring agencies are notified of the outcome. Where the referrer is a member of the public, they should be assured that concerns will be taken seriously, and no further information would be provided without the adult's consent.

4.5 For professionals e.g. GPs - an outcome provides confirmation of action taken under the Act and the adult's current status i.e. is not an adult at risk, so that this can be recorded.

Self-Directed Support

4.6 Self-Directed Support aims to set out a cultural shift around the delivery of support and it recognises that people have the right to a choice of support and control on how this is delivered. This suggests that a care/ support plan may aim to manage risk in as safe a way as is possible while still accepting that the adult has the right to self-determine how he/ she lives their life. In this case the support plan requires to be monitored and reviewed to ensure that the plan is effective or if there is a need to revisit the risk/ harm to the adult again under Adult Support and Protection.

Referral Escalation Process

4.7 Where 3 protection related referrals for an adult are received by Social Work for within 30 days, escalation is triggered. A DTI or IRD should be considered for such adults, where it is believed that the ASP 3-point criteria have been met. The Adult MASH will consider the most appropriate action. For adults who do not meet the threshold for ASP, Social Work will consider the most appropriate action to mitigate any identified risk.

4.8 Further information on escalation can be found in Chapter 5.

CHAPTER 4 - ADULT SUPPORT AND PROTECTION INVESTIGATIONS

1. Adult Protection Investigations

1.1 Social Work Services must commence an investigation within locally agreed timescales. An Adult Protection Investigation will generally be necessary where the information gathered as part of the Inquiry suggests the adult is an adult at risk of harm and the council may need to take action to protect them. In determining whether an investigation is required there should be regard to the principles and consideration of other relevant legislation.

Planned Investigations

1.2 It is the responsibility of the Council Officer to lead on Adult Protection Investigations. This would include the use of investigatory powers set out in Section 7-10 of the Act which may involve other agencies if their action or contribution is required to forward the investigative process i.e. Housing/ Health/ Police or a Specialist Service.

1.3 If at any stage of the Investigation it appears that a crime may have been committed, the relevant information must be passed to the Police at the earliest opportunity. While good practice is the adult at risk should be included in the process and given the opportunity to give their view this does not detract from the responsibilities of the public agencies to make a referral and the discussion and reasons for this recorded.

1.4 The Adult Protection Investigation should be carefully planned to ensure that:

- all available information is gathered and considered
- the adult is fully supported to contribute
- any medical intervention is provided
- any medical evidence is captured
- the ethos of the ASP Act is upheld

Planning an Investigation

1.5 A visit to the adult and an interview with them is likely to be central to the Investigation and will usually require careful planning and a sensitive approach.

1.6 It is the task of the responsible Manager in Social Work to agree the format of the Investigation.

1.7 The Investigation must be a planned process and roles and remits of the investigating officers must be agreed beforehand as to:

- the time and place of the visit - the visit must be made at reasonable times

- whether to give notification of proposed visit and of the purpose (for both of the above there is a need to take into account level and nature of risk and the likelihood of being able to speak to the adult in private)
- who will ask the questions
- who will record the interview
- timescales for completion of each task
- the benefit of involving advocacy services
- support for the adult and any carer
- communication requirements
- is there a need to access other agency records
- involvement of medical staff in the Investigation
- involvement of Mental Health Officer services in the process.
- any potential issues as to capacity, consent and undue pressure
- risk assessment undertaken to ensure staff safety during any visit.

1.8 The content of interviews and any decisions made by the adult, including who attends, require to be appropriately recorded. Reference should be made to guidance given in local procedures.

Planning Large-Scale Investigations

1.9 The Code of Practice advises that multi-agency Adult Protection procedures should include a procedure for Large-Scale Investigations (LSIs). Dumfries and Galloway currently follow the West of Scotland guidance as a single agency Social Work procedure however local LSI guidance is in development.

2. Visits, Support Services, Including Advocacy and Communication

Investigative Interview (Visit)

2.1 The Council Officer may be assisted in the Investigation by appropriately qualified and trained staff from either within Dumfries and Galloway Council or from partner agencies.

2.2 Section 7 allows the Council Officer to enter any place to carry out necessary investigations. In many instances this will mean visiting the place where the adult normally resides, e.g.

- the adult's home, including rented and owner occupied accommodation
- the home of any relative, friend or other with whom the adult resides
- supported or sheltered accommodation staffed by paid carers
- temporary or homeless accommodation
- a care home or other permanent residential accommodation
- any place can also be where the adult is residing temporarily, or spends part of their time, e.g.

- a day centre
- a place of education such as a school, college, university
- a place of employment or other activity
- temporary respite or permanent residential accommodation
- a hospital or other medical facility
- private, public or commercial premises

2.3 The Council Officer is allowed access to all parts of the place visited which might have a bearing on the Investigation. This includes access to any adjacent places such as sheds, garages and outbuildings. If this is where the adult normally resides, this could include all areas used by or on behalf of the adult such as sleeping accommodation, toilet and bathing facilities, kitchen areas and general living space.

Refusal of Entry - Warrant Application

2.4 Where a Council Officer is refused entry to the premises to conduct the Investigation, the council can make application to the Sheriff to seek a Warrant of Entry under section 37. In the first instance and in accordance with the principles of the Act, there is a need to consider how entry may be achieved without the need for an application for a warrant. An application should only be made where there is evidence of no suitable alternative or the alternative fails.

2.5 A Warrant for Entry authorises a Council Officer to visit any place specified in the warrant accompanied by a Police Officer. If the Council Officer needs to open any lock fast place, it is the responsibility of the council, in most cases the Council Officer, to take all reasonable steps to ensure that the person's property and premises are left secured, and consideration must be given to the use of a joiner to assist with entry and securing premises.

The Adult's Participation

2.6 The adult's views and wishes are central to the Act and every effort should be made at each stage of the process to ensure that barriers to participation are minimised. Good practice would be to check at each stage in the process that the adult's views are being actively considered. Where undue pressure is suspected the adult should be interviewed on their own. More information can be found within the Mental Welfare Commission for Scotland Supported Decision-Making.

Support Services

2.7 Section 6 places a duty on Dumfries and Galloway Council to consider the provision of appropriate services. This would include independent advocacy services or inclusive communication services to assist an adult or other person in the household to have their views heard.

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

Role of Advocacy Services

2.9 Independent advocacy aims to help people by supporting them to express their own needs, gain access to information, understand the options available and make their own informed decisions. Unlike the Mental Health (Care and Treatment) Scotland Act 2003 where advocacy is a requirement - the ASP Act states that advocacy should be considered in every case. Good practice would be that the adult should be asked if they know about and would like access to advocacy services. Where advocacy is offered, declined by the adult or deemed inappropriate, the reasons for this should be clearly recorded.

2.10 Dumfries and Galloway Advocacy Service provide a free, independent and confidential advocacy service.

Communication Difficulties

2.11 Social Work Services will ensure that the adult is provided with assistance or material appropriate to their needs to enable them to make their views and wishes known. The communication needs of the adult should be considered and the adult should be asked what support if any they wish. This may include:

- assistance from a relative or primary carer
- technical aids to support communication
- information being interpreted, translated or adapted
- taking account of environment e.g. noise levels, lighting

2.12 A leaflet explaining harm is available in an easy read version.

2.13 In addition, the Office for Disability has guidance on accessible communication formats.

Interviews During Investigation

2.14 The purpose of an interview is to enable or assist the council with an Investigation under Part 1 of the Act, about the source, nature and level of any risk to the adult and also to establish whether action is needed to protect the adult. The aims the interview will be to:

- establish if the adult has been subject to harm;
- establish if the adult feels his or her safety is at risk and from whom; and
- discuss what action, if any, the adult wishes or is willing to take to protect him or herself
- ensure the adult knows why ASP measures have commenced
- explain to the adult what will happen next

2.15 Officers conducting interviews need to ensure appropriate recording of the content of the interview, the decisions and appropriate explanations as to who is present.

3. Adults Rights, Access to Records, Medical Assessment, Intervention and Examinations

Adult's Rights During an Interview

3.1 Section 8(2) provides that the adult is not required to answer any questions, and that the adult must be informed of that fact before the interview commences. The adult can choose to answer any question put to them, but the purpose of this section is to ensure that they are not forced to answer any question that they choose not to answer.

3.2 However, seeking the consent of the adult to be interviewed should not be a matter of simply advising that they are not obliged to answer. Good practice would be to ensure that the adult is clear regarding the purpose of the interview and is given reasonable opportunity and support to answer questions whilst respecting their right not to.

3.3 A lack of capacity to consent to being interviewed is not an automatic barrier to them participating in an interview. The principal of participating 'as fully as possible' should be adhered to. Where it is identified that the adult can contribute but may not fully comprehend the purpose of the interview and some or all of the possible consequences, the planning process needs to ensure that the adult can contribute - whilst protecting their rights. This would include consideration of support services such as independent advocacy or other appropriate representation.

Presence of Others at Interviews

3.4 It is good practice to ask the adult if they would wish another person to be present during an interview to support them. However, section 8 allows a Council Officer and any person accompanying the officer, to interview the adult in private. Whether or not the adult should be interviewed in private will be decided based on whether this would assist in achieving the objectives of the Investigation. The Council Officer or persons accompanying them may decide to request a private interview with the adult where:

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

Interviews With Others

3.5 Section 8 allows a Council Officer to interview any adult found in a place being visited under Section 7. For example, another person who shares their home with the adult or a paid carer in a regulated care setting if not implicated in the harm. Section 8(2) provides that persons interviewed on this basis have the same rights as the adult at risk.

3.6 As with the adult at risk, the consent of the person to be interviewed should not be a matter of simply advising that they are not obliged to answer. Good practice would be to ensure that the person is clear regarding the purpose of the interview and is given reasonable opportunity and support to answer questions whilst respecting their right not to.

Access to Records

3.7 Council Officers must take into account the principles of the Act and records should be accessed and information shared only where disclosure would provide benefit to the adult and can only be accessed using Section 10. Where possible and practicable the adult's consent should be obtained. This may not be possible where the;

- adult lacks mental capacity
- person acting as proxy lacks capacity, is unavailable or unwilling to give consent; or
- situation is urgent and obtaining consent would cause undue delay
- consent would put someone at serious risk of harm
- purpose of disclosure would be undermined e.g. preventing or detecting of a crime

3.8 If you are unable to access records through the consent of the adult then section 10 gives authorised Council Officers a statutory right to seek and obtain records including medical records from any source including other local authorities/ councils and council departments, NHS, public, voluntary, private, commercial during the time of a visit to the person holding the records or at any other time. The Council Officer must provide evidence of their identity and documentary evidence that they are authorised to access records. The Council Officer can inspect the records or arrange for any other appropriate person to inspect records e.g. someone with financial expertise. In the case of health records, only a registered health professional e.g. a Doctor, Nurse, Midwife can be given the authority to inspect records or copies of records. The appropriate information from the health records can then be shared with the Council Officer by the health professional.

3.9 Dumfries and Galloway Council, as lead agency, have a robust records retention policy and confidentiality agreements to ensure appropriate access and proper disposal of records.

3.10 If a request for records is made at a time other than during a visit, it must be made in writing; electronic requests are acceptable as long as they can be used for subsequent reference. Usually, only the relevant parts of a record should be copied for access by the Council Officer and the use of original records is discouraged. Copy records should be treated with the same degree of confidentiality as the original records.

3.11 Section 49 provides that it is an offence for a person to fail to comply with a requirement to provide information under Section 10, unless that person has a reasonable excuse for failing to do so.

3.12 Councils should make reasonable efforts to resolve disagreements when record holders refuse to disclose them. Informal or independent conciliation might be considered, depending on the circumstances and reasons given for refusal.

3.13 For additional details on access to records please refer to Adult Support and Protection (Scotland) Act 2007 Code of Practice 2022.

Medical Intervention and Examination

3.14 In most instances health professionals will respond to any request for medical examination under the auspices of their general duty of care towards their patient particularly where they have a current involvement with the adult at risk and are fulfilling their duty to cooperate with inquiries and investigation in respect of that adult. This is most likely to be where the adult requires medical treatment for a physical illness or mental disorder or assessment of their physical or mental health.

3.15 In some situations, a formal request for a medical examination under Section 9 of the Adult Support and Protection (Scotland) Act 2007 may be viewed as necessary by the Council Officer or the health professional to which the request is being made.

3.16 Section 9 states a medical examination may only be carried out by a health professional as defined under Section 52(2) as a Doctor, Nurse or Midwife.

3.17 It is normally the case that Doctors would carry out a medical examination, Nurses and Midwives would carry out an assessment of current health status.

3.18 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 assess the adult's physical or mental health needs
- to assess the adult's mental capacity
- to provide insight into the adult's ability to safeguard themself
- to provide evidence of harm to inform a criminal prosecution under Police direction or application for an order to safeguard the adult

3.19 The circumstances where medical examination should be considered include:

- sexual harm and where there may be physical evidence
- physical injury which the adult states was inflicted by another person
- explanation is inconsistent with injuries
- neglect and self-neglect, ill or injured or where there are concerns around self-harm and no previous assessment or treatment has been sought

3.20 Where a crime has been committed or where criminality is suspected, the Police should be contacted immediately to discuss how best to progress the Investigation of suspected criminality. If the adult concerned has been injured, the priority must be their immediate health and welfare. The Police may arrange for a Forensic Medical Examination to be carried out. This will

be undertaken in a sensitive and professional manner with due consideration given to the needs or requirements of the complainer. This is essential to ensure no evidence is lost and to allow a criminal investigation to begin.

3.21 If medical intervention is required, wherever possible, all courses of action must first be agreed with the adult. In situations of extreme risk or urgency the Council Officer may need to take immediate action, i.e. involve emergency services without prior consent.

Consent to Medical Examination

3.22 Section 9 states the adult must give consent to medical examination and treatment unless he/ she lacks capacity, or it is an emergency situation and consent cannot be obtained.

3.23 Where the situation is not an emergency and it is not possible to obtain the adult's informed consent due to lack of capacity or they have difficulty communicating in order to provide consent, the council should contact the Office of the Public Guardian via Legal Services to ascertain whether a guardian or attorney has such powers. If not, consideration may be given to whether it is appropriate to use the provisions in the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) Act 2003.

3.24 If the adult has been subjected to sexual harm, a medical examination may be necessary. This should be arranged by the responsible Social Work Manager in consultation with Police.

3.25 Where 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.

3.26 For fuller details on medical examinations please refer to Section 9 of the Adult Support and Protection (Scotland) Act 2007 or Adult Support and Protection Code of Practice 2022 (Chapter 9).

4. Risk Assessments, Investigation Decisions and Possible Outcomes

Completion of Investigation Report and Risk Assessment

4.1 The Council Officer in conjunction with others will decide when to undertake an ASP Investigation which includes a full risk assessment. These will be completed before a Case Conference in order to inform the Chairperson in advance.

4.2 The adult being assessed should always remain at the centre of the assessment and subsequent decision-making.

4.3 The ASP Investigation report requires assessors to determine whether the adult assessed has specific communication needs or requires support from an advocacy service. The tool is designed to ensure that individual rights are recognised at the beginning of a risk assessment and that capacity is considered at this stage. The question of information sharing is included both at the beginning and end of the risk assessment, to ensure that the adults

views are sought where it is agreed that information sharing is required against the person's wishes the reasons for this should be clearly recorded.

4.4 The Risk Assessment provides a format for bringing together comprehensive, relevant information, the tool reflects an expectation that professional opinion/ judgement is required about the risk and any protective action which might be needed.

Chronologies

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

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

4.7 If chronologies are to be of value, they should be:

- written in a consistent format using the multi-agency template to ensure that information can be effectively merged and sorted
- succinct recordings of significant events including people involved and dates in ascending date order i.e. earliest date first
- systematically and regularly shared with relevant professionals
- owned by professionals and used as a tool in assessing progress and the level of concern
- a record of both positive and negative significant events – positive events might increase protective factors and decrease risk
- informing the decision-making process at any given point.

4.8 It is essential that all professionals and agencies understand that they should be active participants in preparing chronologies. Each agency has a responsibility to maintain an up-to-date chronology for every adult at risk of harm and/ or under ASP processes. Single agency chronologies should ensure that information describing key incidents, events and facts are passed on to the Council Officer at appropriate stages throughout the process. The Council Officer's responsibility is to ensure that the chronology is collated, up to date and presented appropriately.

Conclusion of Investigation

4.9 Following the Investigation, the Council Officer and second person will discuss with the agreed manager the further action to be taken. There are a range of possible outcomes and one or more of the following may be initiated. Please

note that each adult's circumstance is different and may require an alternative measure not listed here.

Investigation decision:

(i) **Where the adult does not meet criteria as an adult at risk of harm** - possible decisions are:

- no further action under Adult Protection procedures
- signpost to another appropriate service
- concerns dealt with through care management
- use of other relevant legislation

(ii) **Where the adult at risk of harm criteria is met and harm is established or suspected** then the possible decisions are:

- agree an Interim Protection Plan
- proceed to Case Conference
- consider intervention under Adults with Incapacity (Scotland) Act 2000 or the Mental Health Care and Treatment (Scotland) Act 2003
- use of other relevant legislation

Police Involvement

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

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

Where the Adult Does Not Engage

4.12 Where an adult has capacity and meets the criteria but indicates that they do not wish support, this does not absolve the council and partners of their responsibilities to cooperate and consider protective measures for the adult. While the adult has the right not to engage with the process, the appropriate partners should still meet to consider what action could be taken in the best interest of the adult at risk of harm; this could include a Care or Protection Plan or advice or support with the individual where possible, to manage identified risks.

Feedback to Referrer

4.13 In all cases Social Work Services will inform referring individual/ agencies of the outcome of the Investigation. Where referred by a member of the public they should be assured that their concerns will be taken seriously, and inquiries will be made however no other information will be given without the adult's consent.

CHAPTER 5 - ADULT SUPPORT AND PROTECTION CONFERENCES

1. Case Conference, Chair, Exclusions

1.1 Following the Investigation, if a decision is made to proceed to Case Conference the responsible manager should convene an Initial Case Conference within 5 working days of completion of the Investigation Report.

1.2 There are no statutory provisions relating to Case Conferences.

Purpose of a Case Conference

1.3 An Adult Support and Protection Case Conference is a multi-agency forum, held to share information and make decisions about how to support and protect an adult deemed to be at risk in circumstances where harm has occurred or is suspected. The adult should, where possible, be invited to contribute as fully as possible.

1.4 Case Conference decisions will always seek to protect an adult by the use of informal protection measures but will also consider the need for statutory protection measures under the 2007 Act or other relevant legislation. All relevant reports should be submitted before the Case Conference and the risk assessment will have a completed chronology of significant events to inform the multi-agency meeting and assist with protection planning. The adult or their representative may also wish to submit a report or viewpoint for consideration at the Case Conference and the responsible manager should ensure that all information is passed to the Chairperson as soon as possible.

Responsibilities of the Chairperson

1.5 The Chairperson will be an experienced manager, with relevant knowledge and understanding of adult support and protection legislation and procedures. They must have experience in risk assessment and protection planning and have knowledge of the Adults with Incapacity (Scotland) Act 2000 and the Mental Health Care and Treatment (Scotland) Act 2003 to ensure that decision-making is informed by an appropriate legislation knowledge base. Where the Chairperson requires more specialised knowledge then an appropriately trained team manager, member of Legal Services or appropriate medical practitioner should be in attendance to give advice.

1.6 Case Conferences should be an inclusive process involving the adult at risk of harm and all relevant agencies with an interest where reasonable and practicable. Case Conferences can be either face-to-face, via MS Team or a combination of both to suit the adult's preferences.

1.7 Iriss has developed an online learning resource regarding multi-agency ASP Case Conferences

Invitations to Adult Support and Protection Case Conferences

1.8 The adult at risk should be invited and encouraged to express their views. However, they should not feel pressurised to attend. Should they choose not

to attend, then they may wish to nominate someone to represent them e.g. independent advocacy, or provide a written or recorded account of their views. There may be occasions where it is not appropriate to invite the adult due to issues of the adult's capacity to participate, where the nature of discussions could cause distress to the adult or otherwise increase risk.

1.9 The relevant manager will ensure that all appropriate people are invited e.g. GPs, Police, health professionals, care staff, and Social Workers and, where appropriate, the adult subjected to harm, their advocacy worker, and/ or carer should be invited unless there are grounds to exclude them e.g.

- the person could be a source of risk
- there could be a conflict of interest
- there may be concerns that confidentiality would not be maintained
- an ongoing Police investigation may be compromised
- undue pressure towards the adult

1.10 If the Chairperson is asked to exclude anyone this decision should be made prior to the meeting and decision recorded in the minute.

2. Process, Content, Minutes and Protection Planning

The Process and Content of the Case Conference

2.1 The Case Conference should assess, analyse and evaluate all available information and on the basis of identified risks and needs, develop a Protection Plan to address these.

Case Conference Minutes

2.2 The person who will take the minutes of the meeting should be a member of the ASP Admin Team and should be identified in advance. The minutes should not be taken by the Chairperson.

2.3 The Chairperson has accountability to ensure an accurate record of the discussion and key decisions are recorded and ensure appropriate administrative support is available for this purpose. Within 2 working days the decisions from the Case Conference should be circulated to all relevant agencies. Within 10 working days the Chairperson should ensure that the minute and any Protection Plan is distributed.

2.4 The minutes of the meeting should be treated as confidential. The minutes should only be disseminated to those persons who have the authority and duty to consider what was discussed and decided. The minutes should therefore be kept safely and securely.

Protection Plan

2.5 The Protection Plan has been designed for use when allegations of harm have been made and an Adult Support and Protection Case Conference has agreed that there is a risk of serious harm; or when high levels of risk cannot be managed within a generic support plan.

2.6 Protection Plans can be used at other stages of the process ie Duty to Inquire or Investigation in-keeping with the level of risk and needs of the adult.

2.7 A Council Officer will co-ordinate the multi-agency protection work and will be responsible for updating the Protection Plan following Case Conferences and Core Groups.

3. Case Conferences and Core Groups

Core Groups

3.1 These are normally led by the Social Worker (Council Officer) and minutes are taken by a member of the ASP Admin Team. The Core Group should include the adult and a group of identified professionals involved in the direct support of the adult.

3.2 Core Groups occur 6-weeks after a Case Conference and are tasked with reviewing and monitoring the Adult Support and Protection Plan as well as gaining updates on actions from the Initial/ Review Conferences.

3.3 The Core Group will report back to the Chair and Review Case Conference and will:

- explore any significant events or changes since the last meeting or finalise end actions (End of ASP Core Group)
- explore what is working well and what needs to get better
- consider and involve the adult in discussion along with their views
- record any disagreements within the minute and/ or the Protection Plan
- update the Protection Plan

Adult Support and Protection - Review Case Conference

3.4 A Review Case Conference should be held within 3 months of the Adult Support and Protection Initial Case Conference. Subsequent Review Conferences should take place every 3 months as a minimum, or as required.

3.5 The purpose of the Review Case Conference is to:

- summarise support and outcomes to date and to confirm the current situation
- review risk management plans and establish current level of risk
- ensure agreed duties and responsibilities across partner agencies have been fulfilled and agree any remedial action where required
- review and if necessary, update the Protection Plan
- ensure intervention or legal powers exercised in relation to the Principles of the ASP Act remains proportionate and are the least restrictive option in terms of maximising benefit and offering effective protection to the adult.

Concluding Adult Support and Protection Processes

3.6 The decision to end the Adult Protection process should be taken at either the Initial or Review Case Conference. The decision should be defensible and recorded in the minute.

3.7 For the Case Conference, the initial Investigation report and/ or Core Group minute should be available. Consideration should also be given to the risk heightening factors and risk reducing factors to inform an updated Protection Plan at a Review Case Conference to inform decision-making.

3.8 There are three key elements that require to be considered before ending the Adult Protection process:

1. Current and Future of Risk:

(i) Is the adult still experiencing harm and/ or is there a likelihood they will continue to experience harm if this process ends?

(ii) Have the actions of the Protection Plan been implemented and have they achieved their intended outcomes?

(iii) Has the individual(s) alleged to be causing the harm cooperated with the plan, including any protection orders?

(iv) Is the individual(s) alleged to be causing the harm still in contact and/ or are they likely to re-establish contact if the Adult Protection process ends?

(v) Have there been any significant issues in relation to the adult and/ or relative, carer or significant other(s)?

(vi) What steps have been taken to overcome all or any of these issues?

2. Current views of all relevant parties:

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

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

(iii) Have the views of the relevant professionals been sought or considered within or out with the Case Conference processes?

3. Future Planning and Arrangements:

(i) Is there evidence that the adult at risks welfare will be safeguarded and promoted should the Adult Protection process end, or the case closed?

(ii) What will be the ongoing care and support plan?

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

(iv) If further adult concerns arise is the adult, carer(s), significant other(s), care provider(s), and any other agencies clear as to how to escalate?

(v) If the case is to be closed is the adult, carer(s), significant other(s), care provider(s), and any other agencies clear as to how/ who to refer back to?

End of ASP Core Groups

3.9 These occur 6 weeks following the ending of the ASP involvement with the adult. The purpose of this is to ensure that actions from the Case Conference have been completed and appropriate supports remain in place.

4. Disagreements, Resolution, Escalation and Complaints

Case Conference Dissent/ Dispute/ Complaints

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

4.2 Under the Adult Support and Protection Case Conference procedures any dissent/ dispute or complaint occurring, within the proceedings of the Case Conference must be recorded in the relevant minute. The Chairperson holds ultimate responsibility for decision-making within the Adult Support and Protection Case Conference and subsequent ASP Review Case Conferences.

4.3 However, any serious dissent/ dispute or complaint must be reported to senior management and local procedures followed to deal with disputes and complaints.

Escalation

4.4 When staff are working together with an adult, sometimes professional disagreements can occur that those involved are not able to resolve. In these situations, it is critical that such issues are resolved as quickly as possible to avoid potential “drift” in the delivery of support and protection to the adult. The escalation process aims to support positive resolution of professional difference between agencies working with adults at risk in Dumfries and Galloway at the earliest opportunity i.e. issues should aim to be resolved by those directly working with the adult (stage one) before escalation to managers. This could be achieved via a Professionals’ Meeting.

4.5 Where disagreements cannot be resolved by allocated workers, any agency worker may require escalation of issues through the line management structures. A local Escalation Framework is in place to provide professionals with a process to follow.

4.6 Professional differences are not, intrinsically, a negative thing when working in an area of such complexity as Adult Support and Protection. One of the key reasons for multi-agency working in this area is the recognition and understanding that no single profession of professional will have the answer or solution in isolation. It should therefore be expected that, at times, professionals may see particular situations in different ways. What is most important, however, is that all professionals should feel comfortable with both challenging a particular view or opinion respectfully AND with accepting such challenges occurring.

4.7 For high risk, complex cases (e.g. extreme self-neglect) where it has not been possible to effectively address risks (i.e. the adult will not engage and has

refused offers of support) multi-agency escalation and planning should occur to ensure all reasonable steps are in place to mitigate risk.

APPENDICES

1. Adult Support and Protection Referral Form AP1
2. Process Flowchart
3. Glossary

Appendix 1 – Adult Protection Referral Form AP1

Dumfries & Galloway Multi-Agency Adult Protection Referral Form - AP1

FOR USE BY ALL AGENCIES & CARE PROVIDERS (EXCEPT POLICE)

Adult Concern for adults where you know or believe they are at risk of harm		Adult Protection Referral if agreed by a Manager in your service (care agencies only)	

Complete the form as fully as possible, but don't allow a lack of information to delay a referral

ADULT DETAILS					
Name:			DOB:		
Home Address:			Current Whereabouts		
Postcode:			Tel No:		
Tel No:			CHI/Social Work Reference No (if known)		
Gender:		Ethnicity:		Religion:	
Communication Support (please provide details including communication aids needed by the adult)					
Advocacy Support (please provide details of any advocacy support in place, referral made, or any other support requested by adult)					
GP Name, Address, Tel No (if known)					
Parenting/Carer Responsibilities: (please provide details of any children or adults that the adult at risk may be responsible for) (Please make a separate referral for children who may be at risk of harm)					

REFERRER DETAILS			
Name:		Designation:	
Agency:		Direct Dial Tel No:	
E-Mail:			
Relationship to adult being referred:			
Date of Referral:			
Has Referral already been reported to Social Work by telephone?			

DETAILS OF CONCERN

Is the Adult affected by disability, mental disorder, illness or physical or mental infirmity? **YES or NO** (if **yes, please specify)**	
Is the Adult unable to safeguard their own wellbeing, property, rights or other interests? **YES or NO (if yes, please specify)**	
Is the Adult is at risk of harm (if yes, please state reason and type of harm) - **YES or NO (if yes, please specify**	
Are there other factors which mean that this person is vulnerable or at risk? Yes or No, please outline key factors e.g. is there a pattern to the concerns; is this an accumulation of factors	

Give details of harm/**concern** (suspected/witnessed/disclosed/reported) Include details of any previous AP Referrals/Concerns if known**. Please answer the questions below in as much detail as possible.**
What worries do you have that made you contact us today?
How safe is the adult?
How safe do you think they will be tonight and tomorrow if nothing changes?
How long have you been worried about this child/person?
What are you most worried about?
What have you done to help?
What do you think, given what you know about this person, could be done to help?

Date of Incident (If different from referral date):	

Have you (or any other person) told the adult that this information will be shared with Social Work or other relevant agencies?	YES / NO (delete as appropriate) If yes please state reasons
Is it suspected that a crime has been committed and have Police been informed? Please add below (Include date, time, known action taken, incident number etc.)	

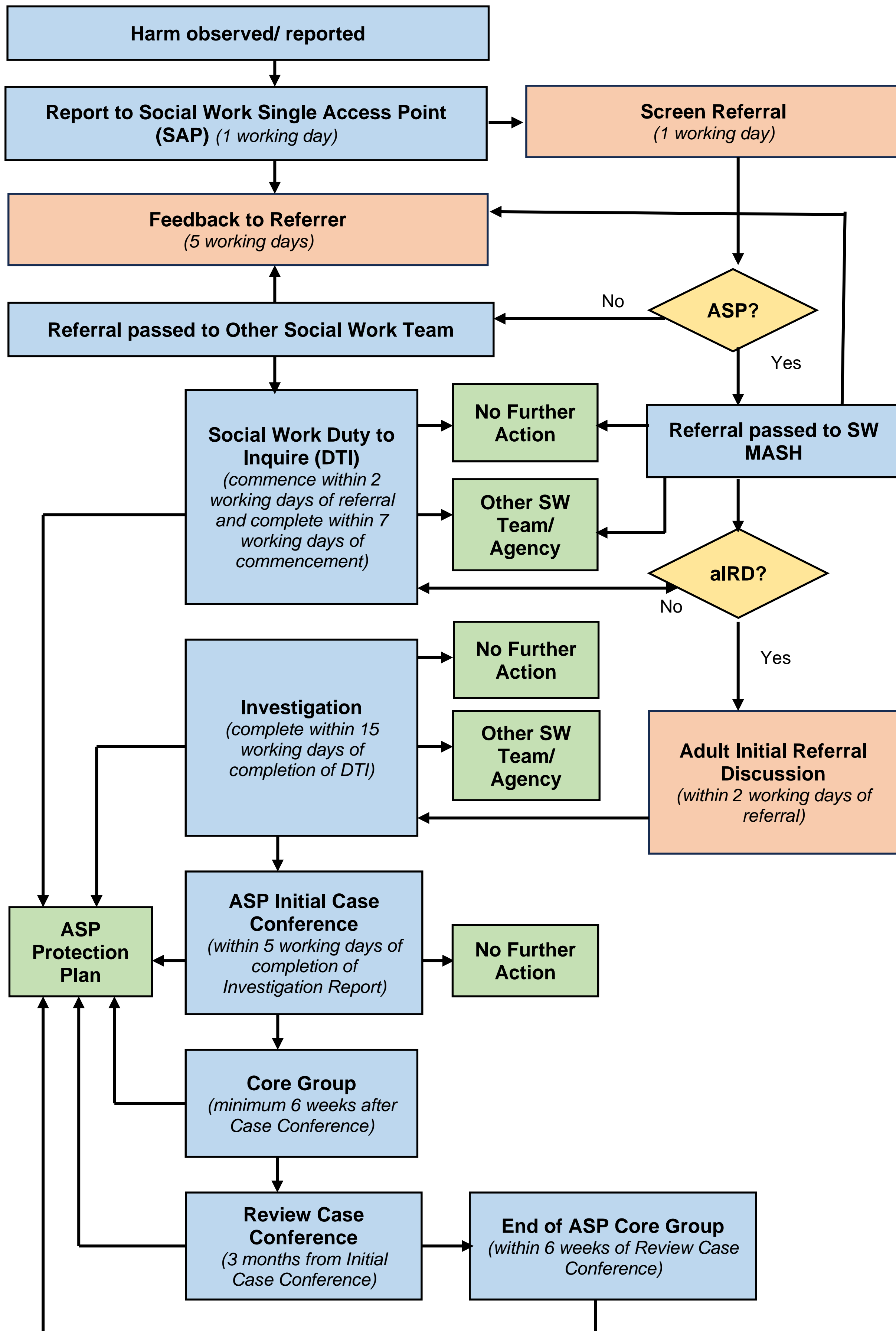
DETAILS OF MAIN CARER / RELATIVE / POWER OF ATTORNEY / GUARDIAN (please PRINT details)			
Name:		Relationship to Adult:	
Address:		Tel No:	
DETAILS OF PERSON REPORTED TO BE CAUSING HARM (If known) Please PRINT details			
Name:		Relationship to Adult:	

Social Work Access Team email contact:	AccessTeam@dumgal.gov.uk
Social Work Access Team Telephone contact:	**030 33 33 3001**
Social Work Out of Hours Team email contact:	socialworkoutofhours@dumgal.gov.uk
Social Work Out of Hours Telephone contact:	**030 33 33 3001**

Remember – An ASP Referral is not an emergency service – if necessary, phone 999 to access immediate assistance

You will receive an acknowledgement of your referral within 24 hours and feedback on the progress of your referral within 5 working days.

Appendix 2 - ASP Process Flowchart



Appendix 3 - Glossary

Glossary

Introduction
This glossary is for illustrative purposes only and is not intended to be prescriptive. Full statutory definitions of many of the terms are contained in Section 53 of the Act and it is those that should be used in any process or situation where precise definition is required.

Adjacent place - A place near, or next to any place where an adult at risk may be, such as a garage outbuildings etc.

Adult (Section 53) - An individual aged 16 or over.

Adult at risk - (Please refer to Chapter 1 for further information for an explanation of the full definition)

Adult Protection Committee (Section 42) (APC) - A committee established by a Council to safeguard adults at risk in its area.

Advance Statement - A statement made under the provisions of Section 275 of the Mental Health (Care and Treatment) (Scotland) Act 2003 setting how a person would, or would not, wish to be treated should they subsequently require care and treatment under that Act.

Assessment order (Section 11) - Order granted by a sheriff to help the Council to decide whether the person is an adult at risk and, if so, whether it needs to do anything to protect the person from harm.

Banning order (Section 19) - Order granted by a sheriff to ban a person from being in a specified place or area. The order may have specified conditions attached. The banned person can be any age, including a child.

Care Commission (Section 53) - The Scottish Commission for the Regulation of Care (now replaced by the Care Inspectorate as of April 2011)

Child (Section 53) - A person under the age of 16.

Conduct (Section 53) - Includes neglect and other failures to act.

Continuing and Welfare Power of Attorney

- Where a person may appoint an attorney with powers over property and financial affairs or continuing on incapacity and/ or an attorney with powers over personal welfare exercised only on the adult's loss of capacity.
- Can deal with an individual's financial affairs and/ or make decisions about their care needs and requirements.
- Powers of Attorney have to be granted while an individual is 'capable' and the powers become active once the person becomes incapable – applications therefore need to be made to the Office of Public Guardian (OPG) in advance of any deterioration in capacity

Council (Section 53) - council constituted under the Local Government (Scotland) Act 1994. References to a council in relation to any person known or believed to be an adult at risk mean the council for the area where the person is currently located.

Council Officer (Section 53) - An individual appointed by a council under Section 64 of the Local Government (Scotland) Act 1973 (c. 65) but the term must, where relevant, also be interpreted in accordance with any order made under Section 52(1).70

Harm (Section 53) - Includes all harmful conduct. This includes conduct that causes physical or psychological harm, unlawful conduct that adversely affects property, rights or interests, possessions, conduct that causes self-harm.

Health professional (Sections 52(2) and 53) - The person is a doctor, nurse, midwife or other type of individual prescribed by the Scottish Ministers.

Inquiry - An Inquiry is any process that has the aim of gathering knowledge and information. This could include inquiries of any relevant party and the co-operation of the public bodies and office holders under Section 5 of the Act. The purpose of making inquiries is to ascertain whether adults are at risk of harm and whether the council may need to intervene or provide any support or assistance to the adult or any carer.

Investigation - An Investigation follows on from an Inquiry. Investigations are carried out for the purpose of supporting or assisting the adult or making necessary interventions, whilst acting in accordance with the principles of the Act.

Investigative Powers - (Investigation activity) Powers under the Act that enable or assist councils to determine whether or not an adult is at risk of harm and to determine whether it needs to do anything to protect an adult at risk of harm (for example medical examinations under section 9 or the examination of records under section 10).

Nearest relative - Section 254 of the Mental Health (Care and Treatment) (Scotland) Act 2003, as applied by Section 53 of the Adult Support and Protection (Scotland) Act, sets out a list of the people who will be considered in identifying a person's nearest relative.

Primary carer (Section 53) - A primary carer is the individual who provides all or most of the care and support for the person concerned. This could be a relative or friend but does not include any person paid to care for the person. Section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003, as applied by Section 53 of the Act, defines primary carer.

Proxy - A continuing or welfare attorney, or a guardian under the Adults with Incapacity (Scotland) Act 2000. More commonly known as a proxy. Can have a combination of powers – welfare, property and/ or finance.

Power of arrest (Section 25) - Can be attached to a banning order at the time when the order is granted or at the same time as an application is made to vary the order.

Relevant Health Board (Section 53) - In relation to any council, means any Health Board or Special Health Board constituted by order under Section 2 of the National Health Service (Scotland) Act 1978 (c.29) which exercises functions in relation to the council's area.

Removal order (Sections 14) - An order granted by a sheriff authorising a Council Officer or council nominee to move a named person to a specified place within 72 hours of the order being made and the council to take reasonable steps to protect the moved person from harm. The order can be for any specified period for up to 7 days.

Safeguarder (Section 41(6)) - Person appointed by the sheriff to safeguard the interests of the person who is the subject of proceedings relating to an application.

Temporary Banning order (Section 21) - An order granted by a sheriff pending determination of an application for a banning order. The order may specify the same conditions as a banning order.

The 2007 Act - The Adult Support and Protection (Scotland) Act, 2007.

Unpaid Carer - Person who without payment, provides help and support to a partner, child, relative, friend or neighbour, who could not otherwise manage without their help. This could be due to age, physical or mental illness, addiction or disability.

Visit - A visit by a Council Officer under Sections 7, 16 or 18 (including warrant entry) unless the contrary intention appears.

Warrant for entry (Section 37) - A warrant that authorises a Council Officer to visit any specified place under Section 7 or 16 together with a Police Officer. The Police Officer can use reasonable force to accomplish the purpose of the visit. The warrant for entry does not allow anyone to remain in the location after it has expired.

Statutory bodies with responsibilities under the Act include:

Sheriff - where the Sheriff Court is the main forum for proceedings in relation to application for powers under Part 6 of the Act.

The Office of Public Guardian (OPG) – can requests powers of attorney, intervention orders and guardianship orders and allows access to funds under Part 3. It has a duty to supervise functions in relation to property and financial affairs and a duty to investigate:

- complaints about the actions of those appointed under the Adult With Incapacity Act concerning financial issues (financial attorneys, Access to Funds Withdrawers, financial guardians or interveners) and also
- any concern raised where there appears to be a risk to an adult's property or financial affairs (i.e., there is no AWI appointment, but funds do not appear to be managed for the benefit of the adult)
- PG can only intervene when an adult is deemed by a medical professional to lack capacity to safeguard their own property or financial affairs.

The Mental Welfare Commission – who retain a general oversight of an adult whose incapacity is due to mental disorder and also have investigatory powers in relation to those exercising welfare powers.

Community Care and Health (Scotland) Act 2002 - This gives eligible carers the right to have an assessment of their needs and ability to care.

Human Rights Act - In this Act the ‘Convention Rights’ are described and set out in the articles and examples include – right to life, right to privacy, prohibition of degrading treatment, freedom from discrimination, right to a fair trial. These are basic human rights, but they are limited by various exclusions - not all the rights are absolute.

Mental Health (Care & Treatment) (Scotland) Act 2003 - This Act came into effect in October 2005. The Act affects people with a mental disorder, and this covers mental illness, personality disorder and learning disability. The Act is based on a set of guiding principles, and this includes for example that individuals should be provided with any necessary care, treatment, and support in the least restrictive manner and that they should be as fully involved in the process as possible.

The Protection of Vulnerable Groups (Scotland) Act 2007 - takes forward the principal recommendations of the Bichard Inquiry Report which called for a registration system for all those who work with children and protected adults. The Act introduces a strengthened vetting and barring scheme for people who work with vulnerable groups.

Regulation of Care (Scotland) Act 2001 - It established a system of care regulations. Its purpose is to provide greater protection for people in need of care services. The Care Commission are required by the Act to regulate certain care services. The Commission registers and inspects services against a set of national care standards.