



ADULT SUPPORT AND PROTECTION PROCEDURES

PURPOSE:

These Procedures provide practical guidance to staff in Orkney Health and Social Care when seeking to support and protect adults at risk of harm and should be implemented in conjunction with the Scottish Government Code of Practice and the Orkney Interagency Adult Support and Protection Guidance.

**Implementation Date: September 2021,
Revised Date : February 2022 Version 6**

Review Date: 2022 Probable update from Review of National Code of Practice 2021

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Circulation: Issued by – Orkney Public Protection Committee

NB – CHECK CORONAVIRUS GUIDANCE ON VISITS, PROTECTION ETC.

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*Please note that Appendices 10 and 11 will be inserted at a later date and a revised copy of these procedures will be circulated thereafter. This does not affect the continued ability to embed and utilise these Adult Support and Protection Procedures within everyday practice.

Acknowledgements

Orkney Public Protection Committee would like to acknowledge the use of material from the Adult Protection Policies and Procedures documents from:

- Argyll and Bute Council
- East Ayrshire Council
- East Dunbartonshire Council
- Fife Council
- Glasgow City Council
- Inverclyde Council

2. INTRODUCTION AND LEGISLATIVE LINKS

The principles and practice of implementing the Adult Support and Protection (Scotland) Act 2007 (known hereafter as the ASP Act) are consistent with other contemporary Scottish legislation already in place designed to support and protect adults at risk of harm, including the Adult with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003.

This has created a coherent and concise legal framework to further the protection of adults at risk of harm and each of the three Acts has relevance to different individuals in different situations, therefore each should be considered when an intervention is required.

The Adult Support and Protection (Scotland) Act 2007 (“the Act”) was passed by the Scottish Parliament in February 2007 and implemented in October 2008 and these Procedures provide practical guidance to staff in Orkney Health and Care when seeking to support and protect adults at risk of harm. It is to be read and implemented in Orkney in conjunction with the Scottish Government ASP Code of Practice and the Orkney Interagency Adult Support and Protection Guidance. The current Scottish Government Code of Practice is in the final stages of revision at June 2021. Adjustments will be made on confirmation of changes.

A. The Adult Support and Protection (Scotland) Act 2007

Part 1 of the Act¹ provides new measures to identify, and to provide support and protection for those individuals who are vulnerable to being harmed whether as a result of their own or someone else’s conduct. These measures include:

- principles which must be taken into account when performing functions under Part 1.
- placing a duty on Councils to make the necessary inquiries and investigations to establish whether or not an adult is at risk from harm and further action is required to protect the adult’s well-being, property, or financial affairs.
- clarifying the roles and responsibilities of those involved in adult protection.
- a duty to consider the provision of advocacy or other services after a decision has been made to intervene.
- permitting practitioners to investigate circumstances where individuals may have capacity to choose but not the ability to exercise that choice because of undue pressure.
- requiring specified public bodies and office holders to co-operate with local councils and each other about adult protection investigations.
- a range of protection orders which are defined in the Act including Assessment Orders, Removal Orders and Banning Orders.
- the establishment of multi-agency Adult Protection Committees.

B. Code of Practice - Adult Support and Protection (Scotland) Act 2007

For Authorities and Practitioners Exercising Functions Under Part 1 of The Act, [the Code of Practice](#) provides guidance about the performance of functions by councils and their officers, and other professionals under Part 1 of the Act. It provides information and guidance on the principles of the Act, about the measures contained within the Act including when and where it would normally be appropriate to use such powers.

The Act imposes a duty on councils, council officers and health professionals performing functions under Part 1 to have regard to the Code of Practice, if relevant. Those using this Code are advised

¹ Parts 2-5 of the Act refer to other matters

to check the relevant measures themselves and to seek their own legal advice as required, when referring to the relevant provisions of the Act.

C. Orkney Inter-Agency Guidance - Adult Support and Protection

We all have responsibilities to ensure that adults who may be at risk of harm in our communities are safe, respected and included, with clear communication routes and fully involved in all decision making. Our aspiration, for all adults who may be at risk of harm in our communities in Orkney, is that they are empowered, through support from the responsible public agencies, to be free from harm and enabled to make decisions and choices about their lives and to live as independently as possible in relation to their personal circumstances.

The Orkney Interagency Guidance brings together the legislation, the relevant Code of Practice, together with relevant Scottish Government Guidance and sets out the actions that should be taken by public agencies to meet their duties under the 2007 Act.

It 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; the timescales for referrals; the process of inquiries and investigations and case conferences.

All agencies and organisations have responsibilities to ensure that adults who may be at risk of harm in our communities are safe, respected and included, with clear communication routes and fully involved in all decision making and this Guidance should be used by all, including those in the voluntary and private sector, knowing that Orkney Protection Committee has signed up, has agreed in principle that it reflects local practice and local procedures.

Further information about the implications of [the Adults with Incapacity \(Scotland\) Act 2000](#) and [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) is available from [The Scottish Government website](#).

3. PRINCIPLES AND DEFINITIONS UNDER THE ACT

A. The Principles of the Act

The Act places a statutory duty on councils to make inquiries about an adult's wellbeing, property, or financial affairs, where it is known or believed that the person falls within the definition of an adult at risk, and to establish whether or not further intervention is required to stop or prevent harm occurring.

All actions under the ASP Act are to be guided by the principles of the Act and must be taken into account by anyone taking or considering action under the legislation. These aim to ensure that the Act is interpreted correctly and ensure that any action taken under the legislation is both necessary and proportionate. All actions must therefore be demonstrably consistent with the principles.

The general principles underlying in Part 1 of the Act are that an intervention in an adult's affairs is that a person may intervene, or authorise an intervention, only if satisfied that the 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.

The following principles are applied when performing functions under the Act. A public body or office holder must also have regard to -:

- The adult's ascertainable wishes and feelings (past and present)
- The 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 and providing the adult with information and support as necessary.
- The importance of ensuring the adult is not treated less favourably than the way any other adult (not being an adult at risk) might be treated in a comparable situation.
- The adult's abilities, background and characteristics (including the adult's age, sex, sexual orientation, religions, racial origin, ethnic group and cultural and linguistic heritage).

See [the Code of Practice](#) (pages 10-12) for more information on the principles.

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 enquiry 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. (The Scottish Government National Self-Directed Support strategy, recognises the balance between enabling risk and the need for protection from the state.)
- 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 be the least restrictive and disruptive response to address the identified risks to health, welfare, property or finances of the adult consistent with the current legislative framework.

B. Legal Definitions in Accordance with the ASP Act

1. The Three Point Test

An adult at risk is defined as a person aged 16 or over who:

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

All 3 of the above aspects must be met in order for the person to qualify as an adult at risk of harm in accordance with the Act (although this does not preclude relevant intervention under other statutory legislation).

2. Risk of Harm

In relation to the above an adult is at risk of harm when:

- 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.

3. Council's Duty to Make Inquiries

A council must make inquiries about a person's well-being, property or financial affairs if it knows or believes –

- a) that the person is an adult at risk, and
- b) that it might need to intervene (by performing functions under this Part or otherwise) in order to protect the person's well-being, property or financial affairs.

This has become known as **duty to inquire**.

4. Definitions of Harm

The definition of "harm" in the Act sets out the main broad categories of harm that are included. However, the [Code of Practice](#) highlights that the definition is not exhaustive and no category of harm is excluded simply because it is not explicitly listed.

In general terms, behaviours that constitute 'harm' to a person can be in one form, one form of harm may overlap or be found in combination with other forms of harm. The harm can be accidental or intentional, as a result of self-neglect or neglect by a carer or caused by self-harm and/or attempted suicide. Domestic abuse, gender-based violence, forced marriage, human trafficking, stalking, hate crime and 'mate crime' will generally also be harm. Contemporary practice and experience has seen the development of a number of harmful behaviours towards an adult at risk and may include:

- **Physical Harm** – involving actual or attempted injury to an adult defined as at risk
- **Emotional / Psychological Harm** – This results in mental distress for the Adult e.g., swearing, shouting, bullying, humiliation, manipulation or the prevention of the use of services or facilities, which would aid or enhance life experience, Isolation or sensory deprivation.
- **Financial or Material Harm** – involving the exploitation of resources and belongings of the adult at risk. See Section 4.
- **Sexual Harm** – involving activity of a sexual nature where the adult at risk cannot or does not give consent e.g., (Incest, Rape, Gross Indecency).

- **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.
- **Self-Harm, Self-Neglect and Hoarding** – Self-harm is a complex topic and may arise because of a wide range of deteriorating motivational or health conditions. It can create the potential for serious consequences to the health and well-being of the individual, and potentially to their community, therefore any interventions require to be carefully managed. (see Section 4.9 - 4.11)
- **Multiple Forms of Harm** – more prevalent than previously recognised - see below

5. Serious Harm

The Act also differentiates between Harm and Serious Harm, although it does not provide a definition of serious harm (nor does the Code of Practice). It is important to consider whether any harm identified is serious for that person. Serious harm will differ from one person to another.

Demonstration of serious harm is required where a Council applies to a sheriff for a Protection Order (i.e., Assessment Order, Removal Order or Banning Order). The Sheriff may grant an order only if satisfied, amongst other things, that the person in respect of whom the order is sought is an adult at risk who has been, or is likely to be, seriously harmed.

Serious harm can be an accumulation of events, both acute and longstanding, which cause the impairment of, or an avoidable deterioration in, physical and/or mental health and or impairment of physical, intellectual, emotional, and social wellbeing.

In the absence of absolute criteria on what might constitute serious harm, the following has been developed through practice and suggests that consideration of the severity of the harm may include:

- The nature, degree and extent of physical harm
- The duration and frequency of the harm and neglect
- The degree of threat and coercion
- The impact on the person and the risk of repeated or increasingly serious acts involving them or other adults at risk.
- The impact on the person concerned. Sometimes a single traumatic event may constitute serious harm.

6. Multiple Forms of Harm

This may occur in an ongoing relationship or a service setting to one person or to more than one person at a time in any setting. Recent research has shown that more than one form of harm can occur at the same time and that this is prevalent in many instances. It is important therefore to look beyond single incidents and consider underlying dynamics and patterns of harm.

More information about Indications of Harmful Behaviour towards an Adult at Risk can be seen in Appendix 4 of this document.

7. Capacity Decision Making

Incapacity is task-specific, and a person may be deemed capable of making decisions regarding some aspects of their life, but not in other areas. The law in relation to adults makes a distinction between those who are capable of managing their affairs and those who are not. The assumption in law is that all adults have the capacity to make decisions about their own affairs until or unless they are recognised in law, as being incapable.

However the [ASP Code of Practice](#) (Chapter 8 Paragraphs 13-15) states that –

“In any interview, gaining the consent of the adult to be interviewed should also consider the adult’s capacity and promote the adult’s participation in the interview. Some or all of the following factors may be considered where there is doubt about the adult’s mental 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?*

The possible scenarios that may emerge include the following –

- the adult has capacity and agrees to be interviewed.*
- the adult has capacity and declines to be interviewed.*
- the adult lacks capacity and is unable to consent to being interviewed.*
- the adult has capacity but is thought to have been influenced by some other person to refuse consent.”*

Any intervention should be explained to the adult and all decisions fully recorded and make specific reference to the principles of the ASP Act.

Where an adult may be at risk of harm, consideration must be given, as early as possible in the investigative process, whether or not the adult has capacity. Regardless of the person’s capacity, the adult protection process may still be used in order to make inquiries, investigate the circumstances of the adult at risk and have regard to the person’s safety. The analysis and assessment will be crucial in determining how best to proceed and consideration should be given to other legislation to ensure that any action, adheres to the relevant principles.

Advice on capacity can be sought from a Mental Health Officer or an appropriate health professional.

4. COUNCIL DUTIES AND THE ROLE OF OTHER AGENCIES

The Council has prime responsibility for the coordination of inquiries into a person's well-being, property or financial affairs if it knows or believes that an adult is at risk of harm under Section 5 of the Act (see below). However inter-agency involvement and cooperation is essential to the effectiveness of supporting and protecting such adults.

A. Governance - Roles and Responsibilities

1. Public Protection Chief Officers

Orkney has established a Public Protection Chief Officers Group that is chaired by the Council's Chief Executive. This group brings together the strands of public protection and safeguarding in Orkney with Chief Officers providing inter-agency strategic direction and challenge.

2. **The Public Protection Committee (incorporating the functions of the Adult Support and Protection Committee)**

The Public Protection Committee (PPC) has representatives from statutory, voluntary and private sectors service providers and includes Orkney Council, NHS Orkney, Police Scotland, Scottish Fire and Rescue, the Care Inspectorate and Scottish Care.

The purpose of the Committee is to –

- Ensure ASP Policies and Procedures are updated and disseminated to staff.
- Monitoring and evaluating the outcome of audits of ASP practice.
- Ensuring that adults subject to ASP investigation are offered support through advocacy and third sector agencies.
- Monitor and ensure ASP training of staff across all service providers.
- Monitor evaluations of training and adapt to fit learning needs.

The PPC also is informed about and contributes to ASP practice through regular management information reports and keeps abreast of contemporary good practice, including research and findings from investigations and serious case reviews. The PPC reports to the Scottish Government every two years through a Biennial Report and, within this, commits to an improvement plan to cover the next period.

The effectiveness of the PPC is enhanced by a devolved structure that includes –

- Sub-committees for all aspects of quality assurance, and for case review have been established.
- A Council Officer Forum will be established, to enable support and feedback from staff.

3. **The Council's Duties under the Act.**

The Act places duties on the council to –

- make inquiries to establish whether action is required, where it is known or believed that an adult is at risk of harm and that intervention may be necessary to support and protect the adult (Section 4);
- co-operate with other councils and other listed (or prescribed) bodies and office holders (Section 5).
- have regard to the importance of the provision of appropriate services (including, in particular, independent advocacy services), where the council considers that it needs to intervene in order to protect an adult at risk of harm (Section 6);

- undertake investigations when inquiries suggest an adult is at risk of harm and is (or is believed to be) in need of support and protection.
- inform any adult interviewed that they may refuse to answer any question put to them (Section 8).
- inform an adult believed to be at risk that they may refuse to consent to a medical examination (Section 9).
- protect property owned or controlled by an adult who is removed from a place under a removal order. This may include moving property belonging to the adult from that place (if it is likely that the property may be lost or damaged) and the council must ensure the property is returned to the adult concerned as soon as reasonably practicable after the removal order ceases to have effect (Section 18).
- visit a place at reasonable times only, state the object of the visit and produce evidence of authorisation to visit. Council officers may not use force during, or in order to facilitate, a visit.

4. The Council's Powers under the Act

Where it is known or believed that an adult is at risk of harm and the council might need to intervene, the Act places a duty on the council to make the necessary inquiries to establish whether or not action is required to stop or prevent harm occurring.

The Act enables a Council Officer to –

- visit and enter any place necessary to assist with inquiries and investigations (Section 7);
- interview, in private, any adult found at the place being visited (Section 8)
- arrange for a medical examination of an adult known or believed to be at risk to be carried out by a health professional. (Section 9)
- Request and examine health, financial and other records relating to an adult at risk. N.B. only a health professional may inspect health records (Section 10)

The Council can apply to a Sheriff for a protection order (Sections 11-22) –

- An Assessment Order - which may be to carry out an interview or medical examination of a person;
- A Removal Order - removal of an adult deemed to be at risk and / or
- A Banning Order or Temporary Banning Order - banning a named person causing, or likely to cause, the harm from being in a specified place or doing a specified thing.

In the event of refusal of entry, a Sheriff or Justice of the Peace may grant a Warrant for Entry that authorises a constable, who accompanies a Council Officer, to use reasonable force. (Sections 36 to 40).

5. The Council Officer

The Act defines a Council Officer as a person appointed by a Council under Section 64 of the Local Government (Scotland) Act 1973 or employed by a Health Board under the public Bodies (Joint Working) (Scotland) Act 2014.

Persons acting as Council Officer will be professionally qualified and registered, and have the knowledge, skills and experience necessary to undertake the functions set out in the Act.

Orkney Health and Care, has identified that the lead officer (Council Officer) must, as a minimum –

- Have at least 12-months post-qualifying experience of identifying, assessing and managing adults at risk.
- Be registered with the appropriate body as social worker, OT or Nurse. (Currently in Orkney, only social workers carry out Council Officer duties.)
- Have relevant post qualification experience.

This does not preclude direct participation, as appropriate, by other relevant professionals.

The Council Officer must not be the welfare guardian.

6. All Other Agency Responsibilities and Duties under ASP Act

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. Additionally, there a number of national regulatory organisations that have key roles and responsibilities that may contribute to a comprehensive approach to supporting and protecting adults at risk of harm in all settings. A multi-agency and multi-disciplinary approach is, therefore, appropriate.

Section 4 of the Act places a duty on councils to make inquiries about a person's well-being, 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 well-being, property or financial affairs.

Effective ASP must include other agencies, and this is recognised in the ASP Act which states that where a public body², or officeholder knows or believes –

- that a person is an adult at risk, and
- that action needs to be taken (under this Part or otherwise) in order to protect that person from harm

This duty to report and to co-operate is extended through contracts to all who deliver service on behalf of the Council or the NHS. Further information is noted below on the specific responsibilities of other agencies and service providers in ASP Inquiry or Investigation.

All agencies and organisations must –

- report the facts and circumstances of the case to the council within 1 working day, or sooner depending on risk factors.
- co-operate with a council making inquiries and each other, where such co-operation is likely to enable or assist the council making those inquiries.
- ensure all staff are aware of adult protection issues and to whom they report internally.
- a working knowledge of the system of reporting concerns to the Council.

B. Recognising Risk of Harm and Harmful Situations

The following are some circumstances that may make harm more likely to occur and particular attention should be paid as these situations can increase the risk of harm. This list is not exhaustive.

1. Locations of Harm

²the Mental Welfare Commission for Scotland, the Care Inspectorate, the Public Guardian, all councils, chief constables of police forces, the relevant Health Board, and any other public body or office-holder as the Scottish Ministers may specify

Harm can take place in any context or setting, including where the adult lives (alone, with a relative or in a group setting); within a residential, care or support at home at home or day care setting or hospital.

2. Alleged Harmers

Adults at risk of harm may be harmed by a wide range of people including –

- Informal carers or other household members.
- A spouse, relative or member of the adult's social network.
- Other relatives.
- Neighbours, friends, associates or a stranger.
- A member of staff or other service provider.
- Paid care workers or volunteers.
- Other service users.
- A person who deliberately targets vulnerable people to exploit.
- The person themselves.

N.B. it is important to consider whether an alleged perpetrator has access to others who may also be at risk. Therefore, consideration must be given to contacting relevant others, within family groupings, and others such as employers, places of volunteering and relevant registering bodies.

3. Care and Support Services

In addition to harms described above, harmful behaviour towards an adult may also include –

- Neglect and acts of omissions by others charged with care or support of the adult.
- Poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and insufficient knowledge base within the service.
- Unacceptable "treatments" or "behaviour" which include sanctions or punishment such as withholding food or drink, seclusion, unauthorised use of control and restraint and over-medication.
- Failure to access key services such as health care, dentistry, relevant medication.
- Failure of agencies to ensure that staff receive appropriate guidance on anti-discriminatory practice.

4. Social Isolation

A person who lives alone, is alone with a carer and is isolated from friends and family may be at increased risk since there is opportunity to keep the harm hidden.

5. Shared Living Situations

Increased opportunities for contact can raise the risk level and can include other service users and may also include staff.

6. Behaviours which challenge

A person who displays behaviour that challenges others may be at increased risk of harm to themselves and to others. This can be increased where the person has a learning disability and/or communication difficulties.

C. Personal Conditions that May Increase Risk of Harm

Consideration should be given to the following conditions, of an adult who is referred, to ensure full consideration by looking beyond the attendant condition to determine whether the person is also at risk of harm. These examples are not exhaustive.

1. Problematic Alcohol and Drug Use

Ongoing problematic use or dependency on drugs or alcohol may take place alongside (and on occasions contribute to) a physical or mental illness, mental disorder or a condition such as alcohol related brain damage. If this is the case an adult may be considered an “adult at risk”. It must be stressed, however, that it is the co-existing illness, disability, or frailty, which trigger adult protection considerations, rather than the substance misuse itself.

Therefore, care should be exercised to ensure that any assessment determines whether, or not, the adult meets the criteria of an adult at risk of harm despite their problem, and that appropriate support and protection is considered, and whether substitute medication or support is required.

2. Mental Disorder

Mental Disorder includes an adult who has or has had a mental illness, a diagnosed personality disorder or has a learning disability. If the adult is known to have, or considered to have, a mental disorder then the involvement of a Mental Health Officer is important whether the person is known or not previously known. This should be discussed and agreed by relevant Managers in health and social work services

D. Self-Harm - Introduction

Self-harm is a complex topic and can include **self-injury, self-neglect and hoarding**. This may arise because of a wide range of deteriorating motivational or health conditions and the adult may be at risk of harm therefore any interventions require to be carefully managed.

Practitioners should always be aware of the possible impact of an adult’s situation, on the wellbeing of any children or other adult involved and should be prepared to raise additional concern if necessary. In all circumstances, carefully consideration needs to be given to self-harm within the context of ASP and include self-neglect and hoarding.

1. Self-Harm

Self-harm can include –

- physical self-injury such as cutting, burning, scalding, head banging, hair pulling, biting and swallowing objects.
- Self-poisoning through the deliberate ingestion of medications or toxic substances in a way that is intended to be self-harmful.

Some people who self-harm may not meet the criteria and will be subject to different legislation. Where the three-point criteria is met and the definition of harm identified is self-harm, the duty to establish any need to offer support and protection in the same way as any other adult.

2. Self-neglect

The failure by an individual to meet his or her own personal, physical and health needs leading to deterioration in their health and well-being. This may arise because of a wide range of deteriorating motivational or health conditions and the adult may be at risk of harm when they are –

- either unable or unwilling to provide adequate care for themselves.
- unable to obtain necessary care to meet their needs.
- unable to make reasonable or informed decisions because of their state of mental health, or because they have learning disability or acquired brain injury.
- refusing essential support without which their health and safety needs cannot be met and the individual does not have the insight to recognise this.

3. Hoarding

Hoarding, can result in self-neglect, and is the excessive collection and retention of any material to the point that it impedes day to day functioning. Pathological or compulsive hoarding is a specific type of behaviour characterised by acquiring and accumulating items that would appear to hold little or no value and would be considered rubbish by other people. This severe cluttering of the person's home, so that it is no longer able to function as a viable living space, can also cause significant distress or impairment of work or social life. Further guidance is available from the Lead Officer.

E. Behaviour of Others that May Increase Risk of Harm

1. Carer Issues

If the risk of harm is thought to arise from a Carer it is crucial any investigation should gain an accurate picture of the Carer's situation. It is well evidenced that caring, particularly without appropriate support, can have a significant impact on a Carer's health, wellbeing, and quality of life. It will therefore be important to recognise and acknowledge this through exploring with the Carer what support could be provided to them or to the adult which may alleviate the circumstances of the harmful situation. The assessment process should therefore also include a carers assessment and support plan under the [Carers \(Scotland\) Act 2016](#).

2. Undue Pressure

An adult at risk can be considered to be under undue pressure if they are refusing consent and:

- The person causing the harm, that the order or action is intended to prevent, is someone in whom the adult at risk has confidence and trust; (and there is evidence to demonstrate that this trust is misplaced)
- Pressure applied by the person whom the adult is afraid of or threatening behaviour towards the adult and consequently the adult does not trust them.
- Pressure applied by person not causing harm (e.g.,, a relative not suspected of causing harm) but does not want the council to intervene.

3. Financial Harm

People who become victims of financial harm are not always recognised as "vulnerable" as some may have capacity or safeguards in place through an Appointeeship, Power of Attorney or Welfare or Financial Guardianship. While in the most part these safeguards work well, there are instances where these protective factors no longer meet the principle of best interest of the adult.

In addition to dealing with the referral in the normal way consider additional steps where –

- the adult has a power of attorney or financial guardian in place and they are suspected of breaching their “Fiduciary duty”. [The Office of the Public Guardian](#) (OPG) should be alerted and information passed on for further investigation.
- Where the adult has an appointee the [Department of Works and Pension](#) (DWP) should be alerted for them to pursue further investigation and action. The DWP have agreed a form for Council Officers to use in respect of S10 requests for information and a dedicated Safeguarding Team are now operating in Scotland to assist. Contact with the DWP Safeguarding Team can be made through the Public Protection Lead
- Contact should be maintained with the DWP (contact detail from the Public Protection Lead (Service Manager Public Protection)) and OPG to confirm the outcome of their investigation and share information on how best to protect the adult from harm.

4. Missing Persons

There is a clear interface with adult support and protection particularly when individuals already identified as an adult at risk go missing. However, some individuals will become adults at risk at the point where they do go missing because of the vulnerability created or inability to keep themselves safe. Therefore, any referral about an adult at risk of harm who may also have been reported missing should be screened in discussion with Police Scotland. [The National Missing Persons Framework for Scotland](#) should be consulted for additional advice.

Individuals who go missing are at risk and may meet the criteria of an adult at risk of harm.

5. Radicalisation and Extremism

Individuals at risk of being radicalised may fit a similar picture to individuals that frontline health and social care staff may encounter as “vulnerable” in the course of their work. In the context of extremism, the term vulnerable is used to describe factors and characteristics associated with being susceptible to radicalisation.

In Scotland, [the ‘Prevent’ strategy](#) aims to tackle all forms of violent extremism and terrorism and works by identifying individuals who may be at risk of being exploited by violent extremist narratives and drawn into terrorism; assessing the nature and the extent of their vulnerability, and, where necessary, providing an appropriate support package tailored to their needs.

Some individuals who are targeted for radicalisation may meet the criteria of an adult at risk, however if this becomes evident, then immediate contact is required with Police Scotland to discuss what actions are required.

F. Violence against Women and Girls

Police Scotland has developed a coherent approach to [violence against women and girls](#) which includes a range of actions that harm, or cause suffering and indignity to, women and children. Additional support or advice may be required by adults who have been harmed in any of the following ways. These include but are not limited to:

- physical, sexual and psychological violence in the family, general community or institutions. This includes domestic abuse, rape, incest and child sexual abuse
- sexual harassment and intimidation at work and in public
- commercial sexual exploitation including prostitution, pornography and Human Trafficking and Exploitation
- so called 'honour based' violence, including dowry-related violence, female genital mutilation, forced and child marriages and 'honour' crimes.

There are now a series of guidelines to guide services in dealing with these issues, available on the [above website](#), and some are summarised below.

MARAC – Multi Agency Risk Assessment Conference. There is a Highlands and Islands Coordinator based in the NHS Highland Health Protection Team and supported by the Police Scotland Protection Hub in Inverness. If there are any indications of domestic abuse for any gender a DASH checklist should be completed and if the score is over 14 or professional judgement indicates safety concerns then **a referral must be made to MARAC**. MARAC safety plans often inform MATAAC (Multi Agency Tasking and Coordination) and/or MAPPA (Multi Agency Public Protection Arrangements) in disruption of perpetrator activity

1. Domestic Abuse and Gender-Based Violence

While women and children are most commonly the victims, men can also experience a range of harmful behaviours linked to their relationships. Domestic abuse or abuse by a relative in a family home is not covered by the ASP Act unless the adult meets the definition of an 'adult at risk'.

The law now recognises domestic abuse as a crime and covers behaviours such as physical violence, psychological and emotional abuse ('coercive control').

Useful sources of information and support for people who are subject to Domestic Abuse can be found on Women's Aid Orkney, and for those who have experienced sexual abuse on ORSAS (Rape and Sexual Advice Service) and from Police Scotland would be available.

Additionally see advice at the [Scottish Government website](#) or [Scotland's Women's Rights Centre](#).

2. Forced Marriage

Different from an arranged marriage where both parties give their full, free and knowing consent; where one or both parties do not, or cannot, knowingly consent to a marriage or duress is involved, it is a forced marriage. Duress can include physical, psychological, financial, sexual, and emotional pressure, threatening conduct, harassment, threat of blackmail, use of deception and other means and may be caused by parents, other family members and the wider community. [Forced Marriage etc. \(Protection and Jurisdiction\) \(Scotland\) Act 2011](#) protects people from being forced to marry without their free and full consent as well as people who have already been forced to do so.

N.B.

- In respect of Forced marriage referrals, the adult does not need to fit the three-point test for this to be fully considered in consultation with Police Scotland.
- Remember the **one chance rule**, you may only have one chance to speak to a potential victim of forced marriage and, therefore, only one chance to save a life. **See Appendix 1**

3. Human Trafficking

Human trafficking is a form of modern-day slavery and can involve people taken from their communities anywhere in the world by force, fraud, or coercion for the purposes of –

- Slavery, servitude and forced or compulsory labour.
- Prostitution or sexual exploitation.
- Removal of organs.
- Securing services and benefits.

It is most likely that any referrals about human trafficking will come via Police Scotland, however, should any be received from any other source who believes that an adult is the victim of human trafficking immediate contact should be made with the police. Information and advice can be found in [The Human Trafficking and Exploitation \(Scotland\) Act 2015](#) and guide. Further advice from COSLA is also available.

N.B.

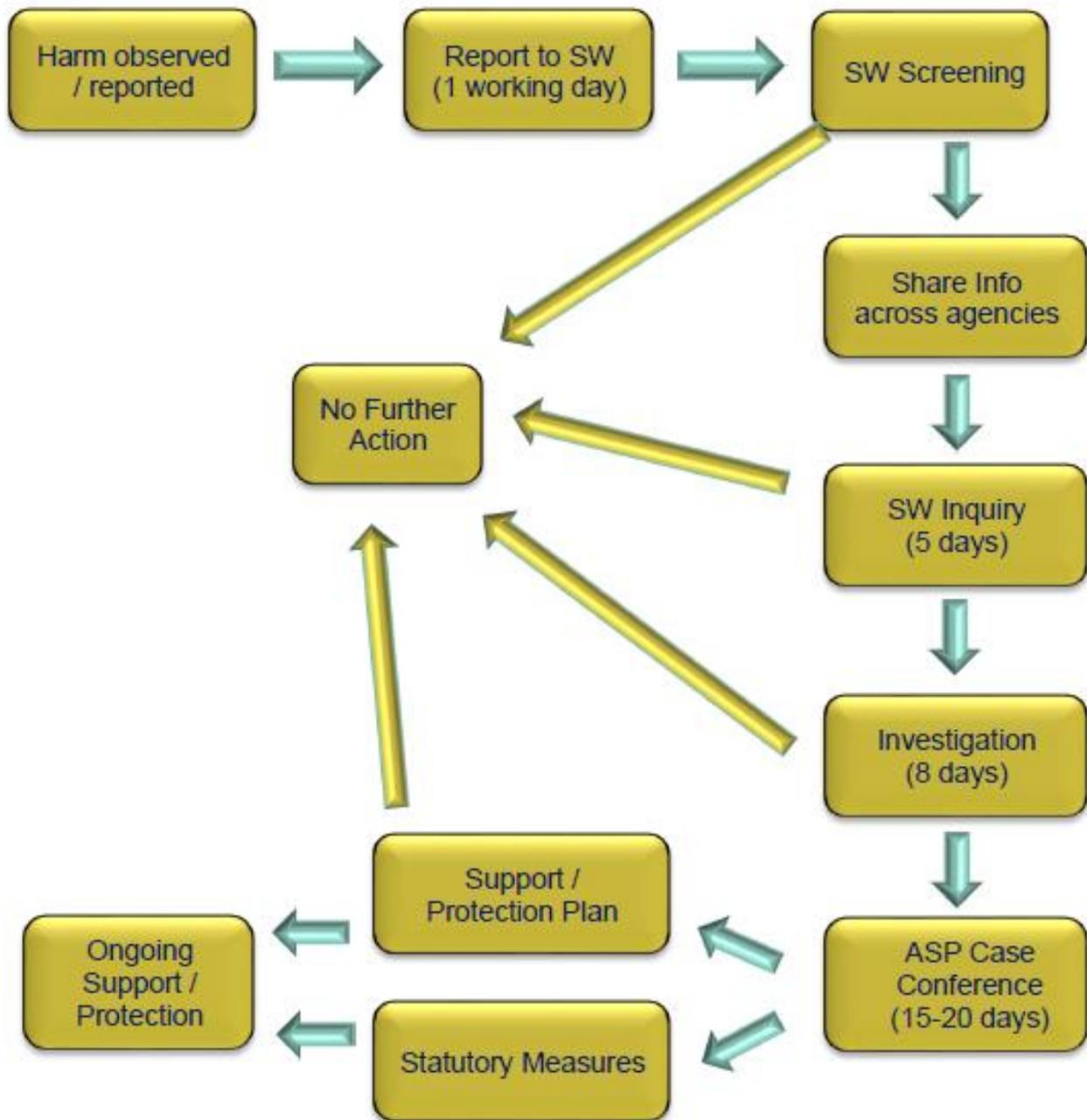
- Some individuals who have been trafficked or subject to exploitation may meet the criteria of an adult at risk.
- Remember the **one chance rule** - you may only have one chance to speak to a potential victim of human trafficking and one chance to save a life, therefore much of **Appendix 1** also applies here.

4. Female Genital Mutilation

FGM is recognised internationally as a violation of the human rights of girls and women and is contrary to the [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#). It reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women. It is nearly always carried out on minors and is a violation of the rights of children.

Some individuals who experience FGM may meet the criteria of an adult at risk. Forensic examination. A forensic examination service is available at the Balfour Hospital, and the Head of Service can advise on further referral to CMHT, ORSAS etc.

G. The ASP Process Chart



N.B.

- The flow-chart shows that an ASP Referral could become No Further Action under ASP, at any time, once the worker is satisfied that NFA is consistent with findings. However, this does not preclude that support or protection is given under other legislation.
- Where recommended timescales are not met, the reasons for this should be recorded.

H. Participation of the Adult through Advocacy and Other Services

Section 6 of the Act places a duty on the council to consider the provision of appropriate services, including independent advocacy services, where it is considered that intervention is necessary in order to support and / or protect an adult at risk of harm.

1. The Adult's Participation

The principles of ASP convey the centrality of the wishes of the adult and the adult participating as fully as possible at throughout the ASP process. Therefore, it is good practice to consider the best ways to check and ensure that this happens at every step of the process and such consideration should include –

- The consent of the adult
- Assistance or material appropriate to their ability to communicate
- Provision of advocacy and other services
- Recognition of undue pressure

See Chapter 5 of the [Code of Practice](#)

1. Independent Advocacy

An independent advocate (IA) can empower and enable the adult to speak up, by standing alongside them and not being influenced by the views of others – ‘to help them tell their story’. ASPA recognises the individual's rights, and independent advocacy supports them to navigate the ASP process. Advice on Advocacy Support is available from the Public Protection Lead.

In the context of ASP an advocate can ensure that interventions are built with knowledge of the adult's views and understanding and are potentially likely to be more effective as a result. The IA helps the adult to develop the skills, confidence and understanding.

- Is especially important to ensure they are heard as they are likely to feel vulnerable
- Can provide support to a carer or service user to alleviate stressful or conflict situations and the potential for harm, in particular where the adult has capacity and does not wish any protective action to be taken
- Enables the adult to stay engaged with services ensuring their protection and other needs are made clear
- Communicating to Maximise Participation
- Conduct each part of ASP process reflecting the principles of ASP.
- Proactively encourage and facilitate involvement in each step of the ASP process.
- Use plain language e.g., 'feeling safe' and find out from the adult what this means to them.
- Ensure the most effective communication (see accessible formats or speak with Speech and Language Therapist, contactable through NHS Orkney
- Consider the need for technical aides to support communication, interpretation, or translation services for an adult whose first language is not English.
- Consider the environment and how it might affect communication e.g., noise levels, lighting etc..
- Take time to build the relationship and establish trust and support the adult to feel safe.
- Ensure service users have accessible information on ASP and an advocate where necessary providing assistance or material appropriate to their participation.
- Needs to enable them to make their views and wishes known.
- Work alongside adults who use services to co-produce a personal protection plan.

- Adults should feel empowered to direct & inform decisions about their own ASP support and protection plan.
- Aim for consistency of staff involvement through ASP process.
- Make meeting formats accessible, including times and locations.
- Offer translation and interpretation as needed.
- Early on establish the sorts of outcomes the adult is hoping for from the ASP process.
- Record accurately the views of adult during ASP processes.

Other aids and adaptations that can support and enable communication include –

- loop systems
- British Sign Language interpreters
- lip speakers
- Makaton
- deaf-blind communicators.

Alternative formats to ordinary print – such as large print, audio tape, Braille and computer disc should also be available as required.

A Quick Guide is available on Orkney Islands Council's Website, detailing different forms of harm and information and a separate useful contacts page

2. Other Services

Other services required will vary according to the adult's circumstances, but may include -

- [Appropriate Adult Scheme](#) - The role of the appropriate adult is to facilitate communication between a mentally disordered person and the police and extends to all categories of interview - witness, victim, suspect and accused. Appropriate adults will have relevant expertise e.g., in mental health, learning disabilities, dementia, acquired brain injury. The role of the appropriate adult is solely as an independent third party checking that effective communication is taking place and that the person being interviewed is not disadvantaged in any way due to their mental disorder. In the context of a criminal investigation an advocacy worker would not be present.
- Vulnerable Witnesses (Scotland) Act 2004 provides support measures to help vulnerable adults participate more fully in court proceedings by providing appropriate support when they give their evidence to reduce any anxiety and pressure. The Procurator Fiscal should fully consider alternative ways of the adult providing evidence. Victim assistance can be arranged through the Procurator Fiscal Support

3. Information for People in Registered Services

Scottish Care has produced material on behalf of the Scottish Government – '[Tell Someone](#)' is aimed at adult social care services in Scotland registered with the Care Inspectorate, including services for older people. The videos and documents provide relevant information for all sectors.

- [Tell Someone DVD Resource Pack](#)
- [Awareness Raising on the Adult Support and Protection\(Scotland\) Act 2007 – Training Slides](#)
- [Information for Care Workers](#)
- [Information for People Who Use Services and Carers](#)

5. REFERRAL PROCESS

1. The Purpose of a Referral

The main purpose of the referral is to bring the attention of the Council to the circumstances of an adult who may have been, or is at risk of being, harmed and that the Council may have to intervene to support or protect them.

“Where a public body³ or office-holder knows or believes –

- that a person is an adult at risk, and
- that action needs to be taken (under this Part or otherwise) in order to protect that person from harm

the public body or office-holder must report the facts and circumstances of the case to the council for the area in which it considers the person to be.” (ASP (Scotland) Act 2007)

This duty to report is extended through contracts to all who deliver service on behalf of the Council or the NHS

2. ASP Referrals - Procedure

- Notification of an adult at risk of harm can be received from any source, by telephone, letter, email or official referral form (AP1).
- Anonymous referrals should be accepted while encouraging the referrer to provide contact details;
- Partner agencies and other service providers have a duty to report the initial referral to the Council within **1 normal working day** where it is known or believed that a person is an adult at risk and that protective action is needed.
- Partner agencies should be encouraged to complete the AP1 referral form providing as much detail as known, either at the time of referral or as soon as possible thereafter, and forwarded to the Adult Care Services Team for the area where the adult resides.

3. Referrals

All referrals to the Council Social Work Service – Duty Social Worker

- Where the adult is known – to the named team and the named worker.
- Where the adult is not known – to the Duty Social Worker

The Adult Care Team will accept and record all telephone and written referrals from all sources, ensuring that all information is transferred onto the electronic version of the AP1 located on PARIS

All admin staff receiving referrals will ensure that all AP1 Reports are immediately hand delivered to the relevant Senior Social Work Practitioner.

All Adult Protection referrals should be recorded and screened by the senior social work practitioner
When Receiving a Referral

Where possible the following information should be sought and recorded at the point of receipt a referral:

- Name and address of adult
- Date of Birth of the adult

³ the Mental Welfare Commission for Scotland, the Care Inspectorate, the Public Guardian, all councils, chief constables of police forces, the relevant Health Board, and any other public body or office-holder as the Scottish Ministers may specify

- Contact telephone number
- Current whereabouts of the adult
- Whether the adult has received, or requires at this time, medical attention as a result of the alleged harm.
- Any persons with an interest e.g., family or carer where known.
- General Practitioner and any other relevant professional currently involved with the adult.
- Information about the alleged harm, and if known the alleged harmer
- Identity of any witnesses and where they can be contacted.
- If the adult has a learning disability, mental health or communication difficulties or if there are concerns in respect of lack of capacity.
- If the adult is subject to any proxy decision making powers under AWI or subject to support under the MHC&T (CPA etc)
- If the referrer is willing to be interviewed during the course of any possible future investigation
- Details of any advocacy service or worker involved.

4. Screening of Referrals

The Service Manager/Senior Social Worker Responsibilities

The Senior Social Work Practitioner for the Team receiving the referral should ensure screening of the referral for the following:

- If any immediate medical assistance or police involvement is needed and arrange this if required;
- Fire Risk and any action required to address this and referral to Scottish Fire and Rescue Service.
- Any involvement of children, if confirmed they must report this immediately to the relevant duty system in Children and Family Services;
- If a registered service is identified then consideration must be given to whether to proceed with an individual inquiry or to initiate a Large-Scale Investigation. Contact should be made with HR and Procurement and the Care Inspectorate if necessary;
- The appropriateness of alternative legislation for example AWI/MH(C&T) and if alternative is deemed appropriate, and with legal advice where necessary, ensure that the outcome of the referral is recorded within the AP1, Section B and passed to the Service Manager for sign off.
- The Senior Social Work Practitioner must ensure that no staff member is placed at risk during an investigation and lone worker arrangements should be followed

The Council Officer's Responsibilities

On receipt of a referral from another service, you should make contact with that service –

- to find out as much information as possible about the adult who has been referred, including any communication difficulties that the adult may have.
- to help determine the level and immediacy of risk involved and the awareness of the adult about this.
- to find out if the adult is aware of the referral having been made.
- To consider the merit of a known worker, from a partner agency, being involved as second worker should that be required to ensure an effective response to a visit and interview.

- Referrals should be acknowledged and referrers kept informed, where appropriate and relevant, of the outcome of the investigation.

5. Emergency Response, and Standby Out of Hours If the information suggests that the adult is in immediate danger, or appears to be the victim of a crime, appropriate emergency services should be called.

Social Work staff should establish if the emergency services have been contacted by the referring organisation or individual, and if not, the Social Work staff member **must** make contact with the relevant emergency service to avoid further delay.

6. Consent of the Adult

It is good practice to gain the consent of the adult, who is known or believed to be at risk of harm, before sharing information between agencies in exercise of professional responsibilities. Where possible, the adult should be informed of the concerns and the statutory reason for sharing information without consent, the relevant line manager informed, and the action and the reasons, recorded

Information must be shared –

- When professionals judge it necessary to act immediately in order to protect someone from serious harm or to report a suspected crime.
- When other bodies or agencies exercise their duty to report under Section 5(3) of the Act and disclose information regarding an individual's circumstances to the Council where they know, or believe, an adult is at risk of harm;
- When the Council is carrying out its statutory duty to investigate under the Adult Support and Protection (Scotland) Act 2007 and the adult has refused consent.

Voluntary and private sector agencies are also required to report actual or suspected harm of an adult at risk under their contractual agreement.

Advice can be sought from legal or professional advisors.

It should be noted that a person's reason for refusal may be related to –

- Not having capacity to understand his/her choice or the consequences of agreeing or not; (*see Section 3.7 above about capacity*)
- Withholding consent because of the undue pressure of another.

Staff must consider and report where they know or suspect that –

- Other adults may also be at risk of harm;
- There is a public safety concern and/or risk to other people;
- A member of staff has witnessed a crime being committed.

7. Are there any children or other vulnerable people involved?

It is the responsibility of **all** agencies and staff to **consider the needs of any child** who may reside or have contact with an adult(s) suspected to be at risk or the perpetrator of the harm.

As highlighted in this Joint Guidance

- staff in Adult Care who are responding to concerns about an adult who may be at risk should always consider whether there are any children in the household (or closely associated with the adult) and who may also be at risk. Where it appears that a child or

children may be at risk, full information about them and the concerns should be shared with Children and Families staff by the appropriate team leader in Adult Care.

- staff in Children and Families who are responding to concerns about children should always consider whether there are any adults in the household (or closely associated with the children) and who may also be at risk. Where it appears that a vulnerable adult may be at risk full information about the individual and the concerns should be shared with Adult Care staff by the appropriate practice lead for the Children and Families team.

Where investigations for a child who may be at risk and an adult who may be at risk are to be undertaken in parallel -

- Each is the responsibility of appropriate social work managers within Children and Families and Adult Care Services.
- Initiating and maintaining close liaison between the teams will be the responsibility of the Service Manager in Children and Families and the Service Manager in Adult Care.
- They will ensure that a case discussion takes place prior to the start of the investigation so that all those involved have the available information about the individuals and the concerns.

A young person between the ages of 16-18 may be covered by children's legislation and also ASP, and consideration should be given to what is most appropriate however in general:

- Support and protection should be provided through Children and Families services
 - If the young person is at school,
 - If the young person has ongoing Social Work support, such as child protection, being 'looked after'
- If the young person has a current named worker then it should be that staff member who leads on offering support and protection in order to ensure continuity
- If the young person is over 16, not at school and not known to services, Adult Care should undertake any necessary work to consider the risks to them and offer support

8. Young People 16 to 18 years

The definition of a child and an adult across the Children and Young People Act, the Adult Support and Protection Act and Adults with Incapacity Act overlap 16 to 18-year-olds, however where an adult is aged 16 to 18 years –

- Where the person has ongoing activity within Children and Families Services, then any investigation will be led by the named worker.
- Where the person is not known to services, then this new referral should be led by the Council Officer in Adult Care Services.

It is important in all cases that the young person receives the most appropriate support available to them by the worker best placed to provide or access this for them, therefore Team Leaders in Children and Families Services and Adult Care Services should collaborate to ensure this happens.

Information sharing about the potential risks to the young person should take place throughout the process, and if the young person lacks capacity, consideration of Guardianship should take place alongside these discussions.

- If the young person is able to make decisions about their own care, support and future options but is considered at risk, then a protection plan should be agreed with them.
- If the young person is assessed as lacking capacity it may be that the Adults with Incapacity Act provides a more appropriate legal framework to ensure that decisions can be made to provide their on-going protection.

9. ASP Referrals from Services or Organisations

Where an adult at risk of harm is already in receipt of a service, then it is good practice for the staff member in the ongoing service to have the support of their manager and –

- to make contact directly with the named Social Worker, or other support agencies where known.

10. Determining the Three Point Test

The following may help in the consideration of whether an adult meets each of the criteria that define an adult at risk of harm –

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

Consider –

- The first element of the above three-point criteria relates to whether the adult is unable to safeguard their own well-being, property, rights, and other interests. 'Unable' is not further defined in the Act but is defined in the Oxford English Dictionary as 'lacking the skill, means or opportunity to do something'. A distinction should therefore be drawn between an adult who lacks these skills and is unable to safeguard themselves, and one who is deemed to have the skill, means or opportunity to keep themselves safe, but chooses not to do so. The unwillingness to safeguard is not the same as the inability to safeguard and a person so assessed may therefore not be considered an adult at risk.
- In respect of the third element, the presence of a particular condition does not automatically mean an adult is an "adult at risk". Someone could have a disability but be able to safeguard.
- It is important to stress that all three elements of this definition must be met. It is the whole of an adult's particular circumstances, which can combine to make them more vulnerable to harm than others. This is helpful when considering what is meant by infirmity for example.
- The assessment of whether an adult can be defined as an adult at risk of harm is not a one-off assessment and the assessor must remain open to the possibility of change in the adult's circumstances, vulnerabilities, medical conditions, and abilities can fluctuate

11. Further Action

The outcome of this stage will result in either –

- A decision to investigate further, founded on **the Inquiry** process and inter-agency discussion;
- Where it is clear that all of the three-point test will not be met, and there are no support or protection issues then there may be no requirement to progress the matter under ASP Procedures;
- A decision to take no further action under ASP should be accompanied by consideration of any other needs that have been evidenced and the most appropriate steps to be taken.

6. MAKING INQUIRIES

1. The Purpose of the Inquiry

A council must make inquiries about a person's well-being, property or financial affairs if it knows or believes –

- that the person is an adult at risk, and
- that it might need to intervene (by performing functions under this Part or otherwise) in order to protect the person's well-being, property or financial affairs.

Other public bodies and office-holders, consistent with the proper exercise of their functions, must co-operate with a council making inquiries and each other, where such co-operation is likely to enable or assist the council making those inquiries. (*ASP (Scotland) Act 2007*)

The Inquiry is both an assessment of the circumstances of the adult and an assessment of risk.

1. The Inquiry Process

The Inquiry follows a report of alleged harm to establish whether there is cause for concern or intervention is required to support or protect the person's wellbeing, property or other affairs and is about gathering relevant information to guide a decision regarding what further action is required.

Information can come from a variety of sources; and it should include –

- Gathering information from the referrer.
- Checking Social Work records for current or previous information.
- Seeking and gathering information from services that have active or recent involvement with the adult.
- Gathering information from other relevant agencies or services (by telephone, face to face contact or meeting).
- Considering other appropriate services that may facilitate the inquiry and, in particular, the engagement and support of the adult such as advocacy, communication supports and any other practical supports necessary.

Where the suspected harm has occurred in a registered establishment or NHS facility; ensure that the Care Inspectorate and / or the appropriate NHS representative must be informed.

2. Immediacy

Safeguarding the welfare of the adult remains paramount and therefore any urgent action deemed necessary should not be delayed by the need for further consultation or arrangements for an initial case discussion/conference.

The Adult Protection is not a linear process, and the range and speed of actions should be determined by information about the possible level of risk of harm and circumstances of the adult. For example, serious or immediate concerns will suggest an immediate investigation through a visit and interview under Sections 7 & 8 of the ASPA (Scotland) Act 2007 within **1 working day**.

3. The Senior Social Worker responsibilities

Inquiries **should commence within 24 hours** following receipt of a report where it is known or believed that an adult may be at imminent risk of harm.

The Senior Social Work Practitioner should –

- Ensure that inquiries are undertaken by a registered Social Worker preferably an approved Council Officer.

- Take steps to ascertain the risk to the adult, in consultation with relevant others, by assessing whether the ASP Referral meets the three-point test and / or whether further investigation under adult protection is required.
- Consider the need for further investigation and risk assessment and record their decision in accordance with the principles of the Act.
- Ensure reporting to the Police where a crime may have been committed.
- Ensure appropriate follow-up if this is a multiple report of harm referral as noted below.
- Consider if the referral has crossed a 'Threshold' as noted below.
- Ensure proper recording of the Initial Referral and Inquiry and the reasons for the decision made.
- Ensure that other agencies, that may have been involved, are informed of the outcome or informed of the next steps.

4. Collating Information for the Inquiry

The AP2 (*see Appendix 11 and PARIS input*) should be completed as fully as possible at this stage ensuring the following have been included –

- Details of the alleged harm
- Indications of whether the harm was a one-off event or part of a pattern.
- The impact of the alleged harm on the adult
- The intent of the alleged perpetrator(s)
- Capacity issues in respect of the adult at risk (AWI (Scotland) Act 2000)
- Issues in relation to mental disorder of the adult at risk (MHA (C&T) (Scotland) Act 2003)
- The legality of the actions involved and consideration of possible criminal proceedings.
- The risk of harmful act(s) being repeated against the adult or other adults deemed at risk.
- The views of the adult at risk sought and recorded.
- The evidence found and assessment of this against the elements of the three-point test.
- The assessment summary, decision made and the reasons for this.

5. Multiple Report of Harm Referral

Some adults will have repeat report of harm referrals, either in a cluster or over a more extended period of time. These repeat reports may be from the same agency or from several agencies and or individuals. Each instance should be subject to inquiry:

- to ensure account is taken of the cumulative nature of some harmful circumstances, or
- to assess any increasing risk, or reduction in the ability of the adult to safeguard
- to check if the adult, who may have previously refused support and/or protection intervention, may now wish to engage.

Where there have been two or more report of harm referrals within a 6-month period or three or more raised within a 12-month period; regardless of the previous outcome/s, the current report of harm must be considered and recorded taking into account the earlier reports of harm and not treated in isolation.

A case discussion should be considered.

In such circumstance the Senior Social Work Practitioner must ensure that checks are made with other relevant agencies and, whatever the outcomes of these, recorded appropriately.

6. Thresholds in Registered Services

In considering referrals regarding an adult who is in receipt of a service from a registered establishment, a care or support service then reference should be made to the Thresholds Framework to guide the assessment process and expectations and requirements of the service provider. **See Appendix 3**

7. Carer's Assessment

Consistent with The Orkney Carers Strategy the following should be considered

- Where there is an unpaid carer or mutual caring circumstance however tenable, in the situation investigated, they should be offered a Carers Assessment and a record of the carer's response made.
- If this is refused, the reasons given for this should be recorded by the Council Officer.
- The Council Officer should record agreement or disagreement about either in respect of the Carer's Assessment or the care offered to the adult at risk of harm.
- It is essential that unpaid carers are offered support as appropriate whilst identifying any deficiency in the care of the adult.

8. 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, therefore consideration must be given to the following – 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. The adult's capacity to understand the risks they are exposed to and the possible consequences of their refusal to cooperate should be reviewed; 'undue pressure' might have contributed to their decision to refuse cooperation. Even where no concerns in relation to incapacity or undue pressure, the adult's refusal to cooperate in an ASP Inquiry should not automatically signal the end of any further inquiry, assessment or intervention.

- Whilst the adult has a right not to engage in any such process, the council and its partners should still work together to offer any advice, assistance and support to help manage any identified significant risks.
- Any assistance should be proportionate to the risk identified and any need to support carers' needs should be considered such as ongoing support that is being / might be provided by another service or agency.
- It is recognised that the success of any intervention where an adult does not wish to cooperate may, by its nature, be limited in scope and effectiveness.

9. Alleged Perpetrators - Considerations

Adults at risk may be harmed by anyone whom they come into contact with for any purpose and it is also important to consider whether the alleged perpetrator has access to others who may be at risk too.

Accordingly, consideration should be given to whether other agencies should be informed and / or involved in the inquiry stage –

- where harm is caused by wilful intent (Police Scotland)
- where negligence, neglect, or failure to act in a registered service (Care Inspectorate, Healthcare Improvement Scotland and the Councils' Procurement Team)
- occur without deliberate intent (e.g., due to carer stress – assessment and care management).

Consider also –

- If the alleged perpetrator is under 18 years, there should be discussion with the Children and Families Team.
- In cases involving multiple victims, perpetrators or suspicion of an organised network Senior Officers from Police Scotland and Social Work Locality Management should be involved at the earliest possible opportunity and a large-Scale investigation considered.

7. INTER-AGENCY DISCUSSION

1. Good Practice Advice

When undertaking the Inter-Agency Discussions, the Council Officer should be explicit about the purpose of the information request and the use to which the information shared will be put. It will be necessary for the social work service to provide sufficient information about the adult and the report of harm so that the other partners can contribute purposefully in the process.

The Council Officer should have a clear understanding of the roles and responsibilities of other agencies (*see below*) and be able to properly explain their authority to inquire and investigate when seeking further information, particularly if challenged.

Such discussions can be undertaken by telephone (Teams, conference call, etc) and may take place more than once with the same person. In more complex cases a 'round the table' professional meeting may be necessary.

An inter-agency meeting may be called by any agency where this may assist inter-agency information sharing about complex cases or where the full circumstances are not clearly understood.

Where the allegation of harm relates to an adult at risk within any NHS facility, the Service Manager overseeing the investigation and the nominated NHS Manager will work co-operatively.

Consideration of input from voluntary sector agencies and colleagues should be considered.

2. The Purpose of Inter-Agency Discussion about the Referral (IRD)

Inter-Agency Discussion is primarily linked to the statutory duty to inquire, and is a considered process for the Council Officer to engage with relevant agencies, that may have involvement with the adult, and may therefore have relevant intelligence that may support the assessment and any proposed intervention and is therefore intended to –

- Share relevant information and jointly analyse the risk, including whether the harm might be “serious”.
- Consider and agree any immediate protective measures and / or action which might be urgent.
- Establish whether there is a need for an investigation and agree plans for doing so, such as medical examination, examination of records, consideration of possible protection order.
- Consider whether a crime has been committed.
- Consider whether a Large-Scale Investigation is required.
- Consider access to advocacy and other supportive measures.

3. The General Roles of All Other Agencies

As part of inter-agency adult support and protection arrangements, it is expected that all agencies and organisations will positively respond regarding the following activity under the 2007 Act and –

- Have internal procedures that set out actions to be taken in the event of actual, disclosed or suspected harm by anyone who may harm a service user or another adult.
- Reporting all cases where they identify possible ASP concerns (section 5).

- Provide clear advice about additional steps (in addition to reporting concerns to the Council) to be taken where the harmer may be another service user or a member of staff or volunteer in relation to a service user.

There are a number of responsibilities and common themes relevant to all agencies and service providers (see also 4.6) including –

- Reporting the facts and circumstances of an adult who may be at risk of harm to the Duty Social Worker in the Council Office.
- Co-operating with the Council and other partner agencies in any Discussion, Inquiry, Case Conference and Protection Plans in relation to the referral.
- Sharing relevant information and records with relevant others such as the Council Officer.
- Having policies and procedures in place and a lead officer for Adult Protection.
- Ensuring staff are clear about the need to take immediate steps to protect an adult (or a child) deemed to be at serious risk of harm such as seeking urgent medical attention or contacting the Police where there is immediate danger to the adult or suspicion that a crime has been committed.
- Authorising staff to be involved in supporting visits and interviews where this might facilitate or enhance an effective outcome (S7 & 8); providing relevant information from agency records (S10); participating in a Case Conference, by attendance or provision of a report.
- Ensuring that Health Staff are clear about the terms within which it is pertinent and important to support the investigation process through undertaking or facilitating a medical examination of the adult at risk of harm.

See Appendices 12-15 for letters and pro-forma for requesting information from another agency or service provider.

4. The Specific Role of Other Agencies in the Inquiry

In addition to the above, specific engagement of service will be required as relevant to their functions.

5. The NHS and General Practitioners (GPs)

Healthcare professionals and GPs have key roles to play in adult support and protection as they may be the first professionals to notice signs of potential harm and are crucial in helping to develop effective inter-agency responses.

As part of inter-agency adult support and protection arrangements, a positive response is expected for the following activity under the 2007 Act -

- Carrying out medical examinations (Section 9).
- Providing relevant information from healthcare records (Section 10).
- Providing or facilitating the provision a medical examination in compliance with an Assessment Order (Section11).
- Fees may be payable, please consult NHS Primary Care for details if required.

Examples where a medical examination may be required include –

- A physical injury which the adult states was inflicted by another;
- Injuries where the explanation is inconsistent with other evidence or information;
- Allegation or disclosure of sexual abuse and there may be forensic trace (Police matter);
- Indicators of neglect or self-neglect, or illness/injury and no treatment previously sought.

6. Police Scotland

The Police may be able to provide information about the adult and / or those who may be causing concern to Police Scotland Orkney should be contacted in the first instance. Police Scotland has its own pro-forma for ASP concerns (*see Appendix 21*)

There will be situations where an agreement needs to be reached about the sequencing of the ASP investigation, in view of the primacy of investigating crime, particularly if there might be forensic evidence. Therefore, there should be appropriate discussion about this before independent action is taken.

If a crime is known or suspected, then Police Scotland should be contacted immediately. Requests for Police attendance must go via 101 unless the incident is ongoing at that time and therefore, you would telephone 999 immediately.

Police also have contact details for the **Appropriate Adults** where this may be required.

For Local Police Command Contact – Police Scotland Orkney

7. 17.Care Inspectorate (CI), Healthcare Improvement Scotland (HIS) and the Councils' Procurement Team

If the report of harm has occurred within a regulated care setting or involves regulated care services the person in receipt of the referral must remind the provider to report the incident to the CI and HIS and the Council's Procurement Team if the provider has not already done so. Each of these teams can contribute to the Inquiry about an individual and whether there likely to be multiple victims or perpetrators, potentially requiring a Large-Scale Inquiry (Appendix 20).

The CI and HIS have various responsibilities under the 2007 Act:

- To submit a report of harm to the social work contact centre where an adult at risk has been identified in a regulated service.
- To participate in an inter-agency referral discussion where there is a regulated service or individual involved.
- To monitor whether regulated establishments and agencies are working in accordance with the relevant National Care Standards and regulations.
- To investigate any breach of regulations established by the Public Reform Act 2011 and take action accordingly.
- To produce reports as requested by the Adult Support and Protection Committee to contribute towards any serious case review.

8. Housing providers – Orkney Housing Association Ltd. (OHAL), Orkney Islands Property Development Ltd., and Local Authority Housing

Housing Associations responsibilities in ASP include –

- Take all reasonable steps to protect adults at risk of harm and always respect their rights.
- Take all suspicions and allegations of harm seriously and act in accordance with service procedures and Reporting Harm Protocol to ensure the safety of an adult at risk of harm.
- Work cooperatively with relevant agencies, treating information as confidential, and sharing information in accordance with the principles set out in the Information Sharing Protocol
- Participate fully at appropriate meetings or adult support and protection case conferences providing relevant reports.
- Contribute to the adult support and protection planning process if appropriate.

- Contribute to inter-agency self-evaluation processes.
- Produce reports as requested by the Adult Support and Protection Committee which contributes to any significant case review.

9. [Scottish Fire and Rescue](#)

While not specified in the Act, [Scottish Fire and Rescue](#) (SF&R) are recognised in the COP as contributing to the protection of adults at risk. There are many circumstances where SF&R will become aware of an adult or child in need of support and/or protection.

The current SF&R Service Prevention and Protection Community Safety and Engagement Safeguarding Policy and Procedures for the protection of Children and Adults at Risk of Harm provides clear guidance on the role and responsibilities of SF&R to recognise, report and co-operate with Social Services and partners.

All multi-agency frontline staff should be aware of the potential risk of fire in homes. SF&R may visit and support vulnerable people and adults should be actively encouraged to seek a Home Fire Safety visit which can be particularly helpful when hoarding is involved. Contact should be made with the SF&R Prevention and Protection Officer at Kirkwall Fire Station.

10. [Office of the Public Guardian](#)

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

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

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

11. [The Department of Work and Pension](#)

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

However, in the meantime DWP have agreed a protocol and template for use with the DWP when Council Officers make a request for access to information (Appendix 16). This template has been circulated to all DWP district managers in Scotland with a covering note to explain its use.

The Department for Work and Pension (DWP) data sharing and access management team have agreed to be a point of contact to resolve any issues which may arise for Council Officers when using this template or if there are difficulties with accessing information through the aforementioned route. Further work and connection with the new **Safeguarding DWP staff** in Scotland is progressing and will provide a valuable contact point for adult protection work. Contact through the Service Manager Public Protection, Adult Support and Protection

12. Trading Standards Scotland

Adults targeted by bogus traders, doorstep crime, scams by mail, telephone or other means, are increasingly coming to the attention of [Trading Standards Scotland](#) (TSS).

Where an adult meets the criteria for an adult at risk of harm TSS colleagues can assist adult protection inquiries by providing 'intelligence' and invoking their powers in relation to activities by unscrupulous companies. The scale of such scams may indicate the need for a large-Scale inquiry. A valuable SCAMS update is produced weekly by Trading Standards.

13. Other Potential Organisations

The above list is not exhaustive, and the Inquiry process may highlight the need to engage other organisation or agencies such as –

- Banks or Financial Institutions
- Scottish Ambulance Service
- Disclosure Scotland
- SSSC.

14. Multi Agency Public Protection Arrangements (MAPPA)

If in the course of an ASP inquiry it becomes known that an adult is subject to MAPPA the circumstances should be reported to the Criminal Justice Service Manager the MAPPA Co-ordinator and the Detective Inspector of the Offender Management Unit, Police Scotland and any further action should be agreed.

It should be noted that an individual subject to MAPPA Level 1 or 2 may not have Criminal Justice Social Work involvement therefore it is crucial to ensure the lead agency for co-ordinating the MAPPA process should be identified, informed and be part of any decision-making process about how to proceed.

15. Cross Boundary Working

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

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

Cross Boundary Working should be guided by the document [Adult Support and Protection Cross Boundary Cases - Best Practice Principles](#) which was agreed by Social Work Scotland in 2018 to guide work across Scotland. It states the principles for effective information sharing regarding Adults at Risk of Harm where they are moving or have moved from one area to another with or without notice to relevant authorities, and are subject to Pre- inquiry screening, Inquiry, Investigation or a Protection Plan under the Adult Support and Protection (Scotland) Act 2007.

16. Notification of an Adult at Risk Transferring from another Local Authority

When notification is received from another authority of the move of an adult at risk of harm to Orkney, the Senior Social Work Practitioner should communicate the following expectations to the originating authority that:

- Relevant papers are sent to the Service Manager, Adult Services, in Orkney, through the ASW inbox.
- The originating authority will convene an AP Case Conference within an agreed timescale and facilitate the attendance of the adult, relatives and agencies from Orkney;
- The case file, including relative reports will be expected to be provided to Orkney at the point of transfer.

17. Where a Section 10 Request is Refused

- Request that the company/organisation provide their reasons promptly, in writing, if they have not done so.
- Discuss the issue with your line manager and consider a request to the Legal services department. This request should be based around the need to formally contact the organisation re-emphasising the legal basis of the request, the fact that inaction can lead to further harm and may be an offence under Section 49.
- Record the initial refusal, reasons given and the actions and outcomes thereafter.

18. Potential Actions Resulting from the Inquiry

A number of actions can result from an IRD:

- **No Further ASP Action** – sufficient information may be available to decide that no further adult support and protection action is required. This may be because the adult is not an adult at risk as defined by the 2007 Act or because the situation can be resolved by introducing or amending services to provide an appropriate level of support to allow the adult to be protected from further harm. (see next)
- **Service Provision or Amendment** – the introduction or adjustment of accommodation, a support or care service can be provided in such a way to protect the individual effectively.
- **Single Agency Investigation** – evidence may suggest this is the best way to proceed and could be a criminal investigation by Police Scotland or, more likely it will be investigation under ASP led by the Council Officer because there is insufficient information to confirm whether the adult is, or is not, and more information is required, requiring a visit and interview under to establish their view of the circumstances and possible intervention to reduce or eliminate the risk of harm.
- **Joint Investigation** – where the information suggests that it would be in the best interests of the adult at risk, a number of agencies will investigate jointly.
- **Adult Protection Case Conference** – consideration must always be given to the need for holding an Adult Protection Case Conference (APCC), particularly in situations where harm has been identified and it has not been possible to implement an effective ASP Plan. In a situation where the issues raised require an APCC to produce an Adult Protection Plan, the Council Officers Report, together with the Investigation and Risk Assessment (AP2) will assist the Adult Protection Case Conference in this task.
See Appendix 18 – Case Conference in Orkney
- **Large-Scale Inquiry** – where there are a number of adults who may be subjected to harm or there is some other factor which could cause more than one adult to be at risk of harm, it is agreed that all agencies will follow the procedure for Large-Scale Inquiry.
See Appendix 20 – Large-Scale Investigation in Orkney

19. N.B. No Further Action

No Further Action does not also preclude consideration of other relevant legislation or mainstream support from Social Work, NHS or other appropriate services based on the adult's needs, therefore, the following actions should be considered and recorded as appropriate –

- Confirm that the adult is safe.
- Set out ongoing supports to the adult.
- Initiate appropriate interventions under assessment and care management procedures including review of any existing care plan.
- Consider more appropriate legislative measures in the presenting circumstances.

While no further action may be required under ASP, outcomes may include –

- NFA – adult not considered at risk.
- NFA under ASP – general social work assessment required.
- NFA under ASP – concerns known & managed through existing care plan.

The decision to take no further action should be recorded in detail outlining the assessment and should reflect multi-agency information and input to the decision.

8. INVESTIGATION

1. The Purpose of the Investigation

The Council Officer is permitted, by the ASP Act (S.7), to enter **any** place to make necessary investigations to assist the Council on conducting inquiries (S. 4) to ascertain whether the adult is an adult at risk of harm and to establish what further protective action may be required. Such visits should be conducted at reasonable times (S. 36) (unless it is considered there is a risk of immediate harm) and can take place where the adult normally resides, temporarily resides or spends part of their time.

The responsibility of the Council Social Work Service and the role of the Council Officer in the investigation of ASP cases cannot be delegated to another agency except through formal agreement in terms of [the Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) that allows suitably qualified individuals who are employed by a Health Board to exercise the functions of a council officer.

N.B. Current practice in Orkney is for the Council Officer from Social Work to lead on the investigation.

2. The Investigation

An adult protection investigation will generally be necessary where the information gathered as part of an adult protection inquiry suggests that the adult is at risk of harm and the council may need to take action to protect them.

It can include making visits, undertaking interviews, arranging medical examinations, and examining records and should ensure that –

- all available information is gathered and matters of fact considered as to the source, nature and extent of the harm or risk of harm and the risk involved.
- the adult is fully supported to contribute and give their view about the situation and the risk involved and any steps they can take to reduce or minimise risk.
- any medical evidence and medical intervention are provided.
- consideration is given to providing the adult with Advocacy support or other relevant services.
- actions necessary to support and protect the adult from harm are fully considered.
- appropriate action is taken in respect of any person who may be causing intentional or unintentional harm to an adult at risk.

3. The Responsibility of the Service Manager.

The Service Manager should ensure –

- A suitably qualified Council Officer undertakes any Visit, Interview, and Investigation under the ASP Act 2007, and will be accompanied by an appropriate accompanying officer as agreed with the overseeing Service Manager.
- That the Council Officer has –
- has at least 12 months post qualifying experience of identifying, assessing, and managing adults at risk
- is registered with the appropriate body as social worker, Occupational Therapist or Nurse.
- has relevant post qualification experience.

- Clarity about the role of the second worker to support the investigation, scribe, offer corroboration and ensure accurate notes and observations.
- The skill -set and profession of the accompanying officer should be considered to maximise the outcome of the process, for example, a health professional may be able to undertake a necessary medical examination during the visit.
- That where there is the involvement of an MHO or the possibility that the adult has, or has had, a mental disorder, then it is good practice to involve an MHO.
- That any known risk, to staff or the adult, is considered before the visit; staff safety prior to the visit being undertaken and appropriate measures put in place (in some cases, police representation maybe required).
- Appropriate time, facilitation and support is offered to investigating staff throughout the investigation, given the potentially demanding nature of this work.
- Briefing of staff prior to undertaking the Investigative visit – see below.
- Oversight of the investigation and ensure that the Council Officer fulfils the (below) responsibilities of that role and that the ASP investigation risk assessment is completed to the required standard.
- Make the decisions based on the findings, and with regard to, the recommendations of the Council Officer.
- Screen the Council Officer’s report and apply appropriate decision making in relation the need for further action such as case conference.
- Confirm Case Conference date and invitees as applicable (the case conference should generally take place within 20 working days of the initial referral or records show why this did not happen - see *Appendix 18*).
- Countersign notes about decision making and the outcome of the investigation.

4. The Council Officer

- It is essential that the Council Officer and the accompanying officer –
 1. Present their professional ID. Others in the household should also be offered an explanation for the visit, without breaching the adult’s right to confidentiality
 2. Inform the adult, deemed to be at risk of harm, of the right not to answer any questions prior to commencement of the interview. Issues of consent and capacity should be considered at this point and taken into consideration.
- The Council Officer leading the investigation should not be the welfare guardian on behalf of the Chief Social Work Officer.
- If the person requires urgent or immediate medical treatment this should take priority.
- Consider the principles of ASP and each of the elements of the three-point test to determine if the adult is at risk of harm.
- If there is a child/children living with the adult, notify our Children and Families team immediately.
- Involve the adult or their legal proxy (POA, Guardian) as fully as possible in line with S6 of the Act within the investigative process.
- Establish, with the adult’s consent, whether they wish professional intervention to take place or any additional support. Explain, if necessary, that consent is not essential for the Council to consider whether they are at risk and what steps to advise or to take.
- Consider the involvement of an independent advocate, translation or sensory impairment service or someone of the adult’s choice to support them.
- Ensure any Informal Carer is informed of their right to a Carers Assessment and offer relevant support to meet any identified needs.

- Establish where possible the views of carers, agencies and relevant persons with an interest of the adult considered to be at risk.
- Consider and record any statutory orders already in place
- If a crime is known or suspected Police Scotland must be notified immediately.
- All relevant legal interventions should be considered to support protect the adult.
- Ensure where possible, appropriate action is taken in respect of alleged perpetrator(s).

5. Investigation-Planning Checklist

The Senior Social Work Practitioner will ensure the Investigation is planned with the designated Council Officer and concluded following the completion of the AP1 (*Appendix 7* **within 21 working days** of receiving the initial referral). The investigation must be a planned process with the roles and remits of the investigation team agreed beforehand as to:

- Identification of an appropriate and relevant Secondary Worker.
- The time and place of the visit – (the visit must be made at reasonable times);
- Who will ask the questions and what they should include.
- Who will record the interview.
- Timescales for completion of each task.
- The benefit of involving advocacy services;
- Support for the adult's carer;
- Communication requirements.
- The need, or not, to access other agency records.
- Involvement of medical staff in the investigation.
- Involvement of an MHO in the process, especially at Case Conferences to ensure their specialist training, experience and skills are utilised for adults with a mental disorder;
- The potential need for a warrant for entry to gain access to the adult and associated Police presence.

6. Medical Examination

Medical examinations may only be carried out by a health professional (defined as a doctor, nurse, or midwife) and may be required as part of the investigation in circumstances such as –

- Immediate treatment is necessary.
- To assess the adult's physical health, mental health or mental capacity; consider that a health professional may accompany a Council Officer during a visit if this would assist the investigation.
- To provide evidence of harm to support an application for a banning order or criminal prosecution.

A medical examination may be required, for example when –

- A physical injury which the adult states was inflicted by another;
- Injuries where the explanation is inconsistent with other evidence/information;
- Indicators of neglect or self-neglect, or illness/injury and no treatment previously sought
- An allegation or disclosure of sexual abuse and there may be forensic trace (Police matter).

Where a Council Officer finds a person at risk of harm in a place being visited –

- The Council Officer or any person accompanying the Council Officer, is a health professional.
- The health professional may conduct a private medical examination of the person.
- The person **must** be informed of the right to refuse to be examined before, a medical is carried out (whether an Assessment Order has been granted or not).

7. Examination of Records

- A Council Officer may require any person holding health, financial or other records (held in any form) relating to the person to give relevant records, or copies of the records to the Council Officer where they are required to further an investigation under ASP Act;
- Such a requirement may be made during a visit or, more generally, at another time and made in writing.

The Council Officer must ensure –

- only to request records that are likely to be relevant to the investigation.
- records will be examined and interpreted by a relevant professional (e.g.,, medical records about the person's physical / mental health examined by a medical professional)
- must ensure they are only seen by those essentially required to see them and
- that it there is an agreement about what happens to the record once it is no longer required.

8. Refusal of Entry

Where an adult refuses entry to a council officer during an investigation, then a warrant for entry may be requested from a Sheriff (or exceptionally from a Justice of the Peace – see next).

The use of force is an absolute last resort, to be used in very exceptional circumstances, and only when all other options have been exhausted, therefore the Council Officer should firstly ensure discussion with the Service Manager and Legal Services.

Discussion with Police Scotland, and application for a warrant for entry can be considered where –

- The council officer is refused, or there is evidence to show entry will be refused, to premises to conduct an investigation.
- In the granting of an Assessment or Removal Order the Sheriff will also grant a warrant for entry.

The Council Officer should also consider –

- how entry may be achieved without resorting to an application for a warrant
- where delay would not increase the risk to the adult, it is good practice to have a multi-disciplinary strategy meeting and plan to consider the known risk to the adult, acting while minimising distress to the adult and risk to staff, and co-ordinating action by those involved before deciding whether to apply for a warrant
- particular regard should be given to minimising distress and risk to the adult.
- taking account of the views of any persons who may be concerned for the welfare of the adult.

The warrant for Entry –

- Authorises a Council Officer to visit any place specified in the warrant accompanied by Police Scotland.
- Authorises the Police Officer to use any reasonable force (e.g., forcing entry).

- Even after obtaining a warrant, entry without force should be attempted.
- Expires 72 hours after it has been granted.

If the Council needs lock fast premises to be opened it has a responsibility to take all reasonable steps to ensure the person's property and premises are left secured. Consideration should be given to the use of a joiner to assist with entry and securing of premises.

In exceptional circumstances such as an emergency and it is impractical to make application to the Sheriff, and the adult at risk is likely to be harmed if there is a delay in granting a warrant, application to a Justice of the Peace can be sought.

In very rare cases, a Protection Order should be considered and discussed with the Service Manager, Legal Services and any other relevant parties.

9. CASE CONFERENCE, PROTECTION PLANNING AND REVIEW

1. The Purpose of the Case Conference

An Adult Support and Protection Case Conference is a multi-agency forum, held to share information and share decisions about how to support and protect an adult deemed to be at risk in circumstances where harm has occurred or is suspected. All case conferences should maximise the involvement and participation of the adult in the decision.

Case conference decisions should 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.

2. A Case Discussion

A case discussion can be a useful meeting to collate information from partner agencies to inform an ASP investigation, however a Case Discussion should not replace a Case Conference. The aim of a Case Discussion is generally about information sharing by the relevant professionals.

There is no set timescale for holding a Case Discussion however, it **should be within the timescale of an investigation**. The case discussion is chaired by the responsible Adult Service Manager.

When should a Case Conference be considered?

An initial case conference will be undertaken when the Service Manager considers the findings within the Council Officer report suggest it is necessary to engage with others, to share relevant information across agencies, to hear from the adult and to agree actions that support or protect them.

Triggers for calling a Case Conference include -

- Where an adult has been harmed or is at risk of harm and requires a co-ordinated protection plan
- Where the adult is at risk of serious harm
- Where the adult at risk has little or no insight into the risk which he or she is exposed to
- A failure of the adult at risk to engage with an existing care plan leading to the adult being harmed or being at risk of harm.
- When new and complex care arrangements need to be established quickly to prevent the adult from being harmed
- Where there is continuing conflict or lack of co-ordination between agencies providing the adult at risk with care and support, therefore placing the adult at risk of harm.

3. Adult's Participation and Representation

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

Professionals in the key agencies are normally familiar with a case conference format; the same cannot normally be said of the adult at risk and their carers. Consideration should always be given to helping the adult and / or carers to fully participate in this important decision-making process.

An invitation to attend is not in itself sufficient and consideration should be given to ensuring that –

- The venue for the case conference is not intimidating to the adult or carers and any access or cultural needs have been considered.
- Ensuring that the number of professionals involved is not overwhelming for the adult which causes them not to attend e.g., reports could be provided by some agencies where their attendance is not essential;
- Appropriate communication aids, translation / sensory impairment services are provided e.g., talking mats;
- Individuals from minority ethnic communities have access to any relevant translation and communication support where required.
- The purpose and process of the meeting has been fully explained both before and during the meeting including the use of accessible information.
- Attendance for part of the meeting is possible if there are areas which an individual finds too distressing and there is an appropriate facility to support this. Video case conferencing could also be considered.
- When someone is unable to attend or contribute through lack of capacity or illness, advocacy and representation are facilitated.
- Adults at risk should not be required to confront those alleged to have caused harm in any meetings and arrangements should consider this.
- Where the person alleged to have caused harm may also be considered an adult at risk, a separate case conference should be held.

4. The Case Conference in Orkney – Best Practice Guidance

Case conferences should be an inclusive process involving the adult at risk of harm and all relevant agencies with an interest. Therefore, consideration as to how the adult, relatives and / or carers might most effectively participate should be thought through before the commencement of the meeting.

Service Managers and Council Officers should be guided by the current best practice guidance that has been implemented in Orkney and is set out at *Appendix 18* of these procedures.

10. PROTECTION ORDERS

1. Purpose of a Protection Order

A Protection Order can only be applied for where it is known, or there is cause to suspect, that the adult is at risk of **serious** harm and are limited to the following specified purposes -

- An Assessment Order - to carry out an interview or medical examination of a person;
- A Removal Order – to remove an adult from a place of risk;
- A Banning Order or Temporary Banning Order - banning a named person from being in a specified place or doing a specified thing.

Unless a protection order is being sought on an emergency basis, the application must be made in writing by a council solicitor, with accompanying evidence provided by the council officer.

2. Application for a Protection Order

- An Adult must consent to the application for a Protection Order and must not be applied for without consent, unless the Council Officer can evidence Undue Pressure by another or has a formal medical opinion of incapacity. This evidence must be provided to the Sheriff.
- The decision to apply for a Protection Order must be authorised by the Service Manager in consultation and Legal Services must be consulted to support the application.
- There must be evidence to demonstrate that there are no steps that could be reasonably taken with the adult's consent before proceeding with an application for order.
- Where the adult lacks the capacity to consent, it is important to check whether there is a welfare guardian or attorney appointed who is authorised and is willing to consent on the adult's behalf. Where no guardian or attorney exists, a protection order can still be applied for; however, the sheriff will require evidence of incapacity. Advice from council solicitors should be sought.
- It is also good practice to ensure that carers providing care and support are kept up to date with the proceedings, where appropriate. This is also important where a Carer is a guardian or a power of attorney.

3. Protection Orders

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

Assessment Order (S.11)

This authorises the Council, if necessary, to take the adult from a place being visited under the Order to allow an interview to be conducted in private; and / or a private medical examination by a medical professional to enable or assist the Council to decide whether the person is an adult at risk and whether it needs to do anything in accordance with the Act in order to protect the adult from harm.

The Order is primarily to facilitate an interview or further assessment and does not contain powers of detention. It is valid from the date specified in the Order and expires 7 days after that date

The adult can refuse to be interviewed, examined, or accompany the Council Officer despite the Order.

Removal Order (S.14)

This allows a Sheriff or Justice of the Peace (in an emergency situation) to authorise the removal of the adult to another place primarily for the purpose of protection. A Council Officer in accordance with the Act may enter any place or adjacent place in order to move an adult at risk.

The Order must be actioned within 72 hours of being granted and can then last for a maximum of seven days although it does not contain a power of detention and the adult can refuse to remain within the place to which they have been taken.

The Sheriff may vary or recall a Removal Order if satisfied that the variation or recall is justified by a change in the facts or circumstances.

The council must take reasonable steps to prevent any property owned or controlled by a person moved in pursuance of a Removal Order from being lost or damaged e.g., this could include moving property. Anything moved must be returned to the adult as soon as is reasonably practicable after the Removal Order concerned ceases to have effect.

- **Banning Order / Temporary Banning Order (s19)**

An application and hearing for a Banning Order may take time, during which time if urgent steps are required then a Sheriff may grant a Temporary Banning Order until the full hearing.

A banning or temporary banning order may –

- ban the subject from being in a specified area in the vicinity of the specified place;
- authorise the summary ejection of the subject from the specified place and the specified area;
- prohibit the subject from moving any specified thing from the specified place;
- direct any specified person to take specified measures to preserve any moveable property owned or controlled by the subject which remains in the specified place while the order has effect;
- be made subject to any specified conditions; and
- require or authorise any person to do, or to refrain from doing, anything else which the sheriff thinks necessary for the proper enforcement of the order.

An application for a Banning Order can be made by any person including the adult at risk and conditions can be placed on Banning Orders by the Sheriff, including the length of the Order (up to six months), conditions of / to contact, or attaching a power of arrest. These can be appealed against by the person being banned.

It should be noted that in situations where adults perpetrating harm are subject to statutory criminal justice disposals this supersedes the Adult Support and Protection Act in terms of protection orders which should not be used.

A banned person can be an adult or a child. Where consideration is being given to applying for an Order which bans a child, this should include prior consideration of making a referral to the Children's Reporter where it is believed there would be an effective case to answer.

If the circumstances are such that there is a need to act urgently, then a referral to the Children's Reporter should be made at the same time as the application for an Order.

A banning order expires on the earliest of the following dates—

- any specified expiry date
- if the banning order is recalled, the date on which it is recalled
- the date which falls 6 months after the date on which it is granted

The Protection Order Template can be found at Appendix 9, attached to this document,

4. Representation of the Adult

The adult is entitled to be represented within the Court process and where the adult concerned has indicated they do not wish to have legal representation, or it appears they do not understand the process; this should be recorded and indicated to the Court by the Council.

The Court retains a common law power to appoint a Curator ad Litem where a person is party to a case but does not have full mental capacity. The Sheriff has discretion to appoint a Safeguarder before deciding on an Order. The role of the Safeguarder is to safeguard the interests of the adult at risk in any proceedings relating to applications and the Sheriff may instruct the Safeguarder to report on the issue of consent.

Should the Council Officer become aware that the person suspected of harming the adult may also attend proceedings e.g., where the adult wishes to be accompanied by that person, the Council Officer should instruct Legal Services to inform the Sheriff prior to the Hearing being held. This will allow the Sheriff to decide whether to apply the provisions available under the Vulnerable Witnesses (Scotland) Act 2004.

5. Serving of the Order

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

6. Breach of an Order with Power of Arrest

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

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

11. LARGE-SCALE INVESTIGATION

1. A Large-Scale Investigation (LSI)

A large-scale investigation (LSI) may be required where an adult who is a resident of a care home, supported accommodation, an NHS hospital ward or other facility, or receives services in their own home, has been referred as at risk of harm, and where investigation indicates that the risk of harm could be due to another resident, a member of staff or some failin,g or deficit in the management, regime, or environment of the establishment or service.

In practice there are likely to be multiple victims or implications for other adults in similar situations.

2. Key Points

An LSI allows a range of appropriate services to work together in a planned and managed way ensuring a standardised approach for all professions consistent with current evidence of best practice. It will be led by the agency most appropriate to the circumstances of the situation and agreed at the outset.

It offers a framework for an alternative process to holding large numbers of, potentially disparate individual Adult Support and Protection Investigations (particularly if there are cross border issues) and ensure that there is adequate overview and co-ordination where a number of agencies have key roles to play.

The following should be alerted and be involved in the investigation with due regard given to sensitivities and conflicts of interest where staff are involved, or procurement or scrutiny processes are deficient –

- Head of Service of the Local Authority in which the establishment is sited, or the service is delivered; (a discussion should take place with any placing authority involved to consider the investigation);
- Care Inspectorate or Health Improvement Scotland Staff;
- The Councils' Procurement Team; HR resources and Legal Advice where deemed appropriate
- Police Scotland, where there is a possibility that a crime may have been committed.

Key considerations. where a Large-Scale Investigation has been identified, include –

- Clarifying who should lead any investigation.
- The responsibilities of partner agencies.
- Which statutes are the basis for effective, proportionate and timely, protective action.

Below is the LSI Procedure for Orkney, designed to guide action, it states clearly –

If there is a concern that others may be at risk, the Service Manager should alert the social work case managers in order that their views are sought and any other relevant information shared between agencies to agree the level and scale of risk to service users.

3. Registered Services

- The Care Inspectorate (CI) should be immediately notified where harm is reported within a registered service. The CI has a duty in the enforcement of care standards.
- Consideration should be given to joint intervention and a coordinated approach with the CI. They may also participate in the actual investigation, by agreement, where it is considered there is a strong probability that action may be required under the [Public Services Reform \(Scotland\) Act 2010](#)
- However, where there is current or potential risk to the welfare of an adult / adults the Local Authority will be the lead agency in accordance with the ASP Act.

4. Large-Scale Investigation in Orkney – Best Practice Guidance

The current procedure for LSI is attached at Appendix 20 and it details the steps that should be followed in Orkney when the need for a large-Scale investigation is considered.

The procedure sets out much of the framework for an LSI and provides essential information about the context and process for such a complex piece of work.

APPENDICES

12. APPENDIX 1 - THE ONE CHANCE CHECKLIST

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

- See the 'Victim' on his/her own – even if he/she is accompanied by others.
- See he/her immediately in a secure and private place where you will not be overheard.
- Reassure him/ her about confidentiality (in line with your organisation's policy) and explain that you will not give information to her family/friends or community.
- Accept what she/he says.
- Explain all the options to her/him and their possible outcomes.
- Recognise and respect her/his wishes.
- Assess the risk she faces by conducting an appropriate and thorough risk assessment.
- Contact, as soon as possible, the lead worker responsible for forced marriage (if she is under 16, refer to Child Protection inter-agency guidance; if she is an adult at risk, discuss with your adult support and protection lead and refer to interagency guidance).
- Agree a way to contact her safely (for example agree a code word).
- Obtain full details to pass on to the lead worker and record these safely.
- Give her (or help her memorise) your contact details and/or those of a support agency such as Women's Aid.
- Consider the need for immediate police involvement, protection and placement away from the family and arrange this if necessary; this includes any action to stop her from being removed from the UK.
- Do everything you can to keep her/him safe.
- Get immediate advice if you are not sure what to do.

DO NOT

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

ADDITIONAL INFORMATION

- See more at <https://www.gov.scot/policies/violence-against-women-and-girls/forced-marriage/>
- Further advice available from the UK Forced Marriage Unit: www.fco.gov.uk/forcedmarriage
- [Forced Marriage etc...\(Protection and Jurisdiction\) \(Scotland\) Act 2011:](#)

13. APPENDIX 2 - DEFENSIBLE DECISION MAKING IN ASP

1. Act within Protective Legislation

- a. Adult Support and Protection (Scotland) Act 2007
- b. Adults with Incapacity (Scotland) Act 2000
- c. The Mental Health (Care & Treatment) (Scotland) Act 2003
- d. The Human Rights Act 1998

2. Apply Procedural Fairness

- a. Be proactive, investigative, and holistic, taking into account all aspects of, and risks to, the adult and the wider family
- b. Consider Capacity
- c. Consider Advocacy
- d. Fulfil Duty of Care
- e. Bias – be aware of & guard against prejudice or predisposition / prejudgement
- f. ASPA principle of not treating less favourably without reason

3. Apply Consistency with Agency Work Practice and Procedures

- a. Multi-Agency Guidance
- b. Single Service Guidance
- c. Codes of Conduct / Practice
- d. Policies – Information Sharing Protocol
- e. Supervision / line managers instructions

4. Ensure Decisions Are Grounded in the Evidence

- a. Communicate with relevant others, seek information you do not have
- b. Collect, verify, and thoroughly evaluate information received

5. Take Account of All Considerations Relevant to the Situation

- a. All of the above
- b. Facts
 - i. What is the situation?
 - ii. Who is involved?
 - iii. When did it occur?
 - iv. Where did it occur?
 - v. How did it occur?
 - vi. One-of / Repeated?
 - vii. Seriousness
 - viii. Adults View
 - ix. Adults willingness to take steps to avoid/reduce harm
- c. Evidence
 - i. Relevant
 - ii. Credible, from a reliable source
 - iii. Significant – addresses concerns
- d. Impact / known outcomes
- e. Match risk management interventions to risk factors – e.g., take all reasonable steps to avoid / reduce harm
- f. Maintain contact with service user - level commensurate with level of risk of harm

6. Reflect Upon and Analyse All Facts with an Independent Mind

- a. Thorough and impartial consideration
- b. Ask if anyone has inappropriately influenced the direction of the decision
- c. Ensure multi-agency perceptions are considered

7. Record and Account for Your Decision Making

- a. Record decisions succinctly and in line with the agencies' recording policy
- b. Communicate decisions and related actions to all relevant parties
- c. Report outcomes back to the lead agency

8. Reconsider the Decision if More Evidence/Information Becomes Known

14. APPENDIX 3 - THRESHOLDS FRAMEWORK FOR SERVICE PROVIDERS

INTRODUCTION

This guidance is designed to support staff to make consistent, appropriate decisions about incidents that occur in any Care or Support Setting and about the most appropriate response, including which should be referred to Social Work under Adult Support and Protection procedures, and when the Police might be involved.

The Threshold matrix sets out different types and patterns of harmful behaviour in terms of the level of risk they pose to the service user. The level of risk then determines the level of reporting and response.

- Firstly, incident types and patterns categorised as a lower level of risk to service users can be dealt with by the provider or care manager and reported to Social Work and the Care Inspectorate through regular processes. The Care Inspectorate's notification guidance can be found [here](#).
- Secondly, if the level of risk is raised, a referral should also be made to Social Work under Adult Support and Protection Procedures.
- Thirdly, where the service user has experienced significant harm and criminality is possible, a report must additionally be made to Police Scotland.
- Regardless of how they are responded to, *all incidents must be properly logged in the attached pro-forma* to demonstrate that their responsibilities have been fulfilled, to enable patterns of concern to be identified and ensure appropriate responses are made.

Level of Intervention	AWARE Lower-Level Risk	ALERT Potentially Serious Risk	ALARM Very High Risk
How to Intervene:	<ol style="list-style-type: none"> 1. <u>Internal processes & Record.</u> <i>Consider retrain, discipline etc.</i> 2. <u>Also Care Management process</u> 	<ol style="list-style-type: none"> 1. <u>Adult Support and Protection Procedures</u> <i>If referral follows repeat incidents of the same type of harm, ensure that SW duty team advised of all previous incidents.</i> 	<ol style="list-style-type: none"> 1. Criminal Investigation
Who to Refer to:	<ol style="list-style-type: none"> 1. <u>Line Manager</u> 2. <u>SW Care Manager, Care Inspectorate, Procurement Manager as per Procedures</u> <p>In ALL cases - consider possibility of ASP referral and record reasons if not made</p>	<ol style="list-style-type: none"> 1. <u>Your Line Manager</u> - do NOT delay referral, if unavailable 2. <u>Contact</u> – Cathy Martin, Out of hours) - or Allocated Worker if known. 3. <u>Also e-mail asw@orkney.gov.uk</u> <i>Additionally - seek advice about referral from Office of Public Guardian if Power of Attorney or Guardian is involved in harm; Fire and Rescue or Environmental Health where environment is unsafe.</i> 	<ol style="list-style-type: none"> 1. Police / Emergency Services 2. Also make ASP referral to SW

THRESHOLD MATRIX

Level of Risk	LOWER LEVEL		SERIOUS		VERY HIGH
Type of Harm	Low	Moderate	Significant	Substantial	Critical
Physical	<ul style="list-style-type: none"> Staff error causing no / little harm e.g., skin friction mark due to ill-fitting hoist sling Minor events which meet incident reporting criteria 	<ul style="list-style-type: none"> Isolated service user or service user incident Inexplicable light marking found on one occasion 	<ul style="list-style-type: none"> Repeat service user on service user incident Inexplicable marking or lesions, cuts or grip marks on a repeat basis Witnessed accidental injury leading to hospital admission/medical treatment 	<ul style="list-style-type: none"> Inappropriate restraint <u>N.B.</u> Please remember that inappropriate restraint could constitute an assault by a staff member – consult with the Police if in any doubt Withholding of food, drinks or aids to independence Inexplicable fractures / injuries 	<ul style="list-style-type: none"> Withholding of food or drink resulting in irreversible damage or death Assault by staff member Serious assault resulting injury, permanent disfigurement, endangerment of life, death
Medication	<ul style="list-style-type: none"> Adult does not receive prescribed medication (missed / wrong dose) on one occasion – no harm occurs 	<ul style="list-style-type: none"> More than one adult does not receive medication on one occasion – no harm occurs 	<ul style="list-style-type: none"> Recurring errors (missed/wrong dose) that affect more than one adult and/or result in harm 	<ul style="list-style-type: none"> Covert or deliberate maladministration of medication 	<ul style="list-style-type: none"> Pattern of recurring errors or deliberate maladministration which results in ill-health or death
Sexual	<ul style="list-style-type: none"> Teasing or low level unwanted sexualised attention (verbal or touching) on one occasion – regardless of capacity 	<ul style="list-style-type: none"> Verbal sexualised teasing or harassment on one occasion 	<ul style="list-style-type: none"> Service user on service user incidents where harmer lacks capacity: <ul style="list-style-type: none"> Recurring sexualised touch or masturbation without consent Being subject to indecent exposure Contact or non-contact sexualised behaviour which distresses adult e.g., includes social media 	<ul style="list-style-type: none"> Sex in a relationship characterised by authority, power inequality or exploitation Being made to look at pornographic material in absence of consent/capacity to give consent 	<ul style="list-style-type: none"> Sex in a relationship characterised by authority, power inequality or exploitation as defined within the sexual offences act Indecent exposure, indecent assault, rape Voyeurism

Psychological	<ul style="list-style-type: none"> Adult is spoken to in a rude or inappropriate way on one occasion but is not distressed 	<ul style="list-style-type: none"> Occasional demeaning or aggressive language which causes distress Restricting choice and agency by withholding information 	<ul style="list-style-type: none"> Care or treatment which undermines the adult's dignity Denying or failing to respect the adult's choice or opinion Frequent demeaning or aggressive language 	<ul style="list-style-type: none"> Deliberate humiliation Emotional blackmail e.g., threats of abandonment / harm/ self-harm 	<ul style="list-style-type: none"> Denial of basic human rights Forced Marriage Prolonged intimidation Threatening and abusive behaviour Stalking
Financial	<ul style="list-style-type: none"> Money is not recorded safely or properly 	<ul style="list-style-type: none"> Adult is not routinely involved in decisions about how their money is spent or kept safe – capacity not properly considered 	<ul style="list-style-type: none"> Adult denied access to own funds or possessions Adult's money kept in joint bank account and unclear as to equitable spend 	<ul style="list-style-type: none"> Misuse/misappropriation of money, property by person in position of trust or control, e.g., POA, guardian 	<ul style="list-style-type: none"> Fraud, exploitation in relation to income, benefits, property, will Theft
Neglect	<ul style="list-style-type: none"> Missed home visit on one occasion – no harm occurs Adult not assisted with a meal or drink on one occasion and no harm occurs 	<ul style="list-style-type: none"> Inadequacies in care e.g., occasionally left wet, lead to discomfort but no significant harm No access to aids for communication or independence 	<ul style="list-style-type: none"> Repeat pattern of missed home visits or one missed visit and harm occurs Hospital discharge without adequate planning and harm occurs 	<ul style="list-style-type: none"> Ongoing deficiencies in care which impact on health and wellbeing – e.g., pressure sores, urine burns, dehydration, malnutrition, loss of independence/confidence 	<ul style="list-style-type: none"> Ongoing deficiencies in care which result in irreversible damage or death Failure to access emergency services or medical care Failure to intervene in dangerous situations where adult lacks ability to safeguard
Discriminatory	<ul style="list-style-type: none"> Teasing motivated by prejudicial attitudes towards an adult who has one or more **protected (below) characteristics on one occasion 	<ul style="list-style-type: none"> Care planning fails to take account of impact of adult's protected characteristic/s for a short period 	<ul style="list-style-type: none"> Inequitable access to services Recurring failure to take account of impact of adult's protected characteristic/s 	<ul style="list-style-type: none"> Refusal of access to essential services Denial of human rights and civil liberties Harassment on a regular basis 	<ul style="list-style-type: none"> Hate crime resulting in injury disfigurement murder /requiring medical treatment/ causing fear and distress Honour-based violence

Institutional	<ul style="list-style-type: none"> •Lack of stimulation/ opportunities to engage in social and leisure activities •Adult not enabled to participate in service 	<ul style="list-style-type: none"> • Denial of individuality and opportunities to make informed choices and for positive risk taking • Care planning documentation not person-centred 	<ul style="list-style-type: none"> • Rigid/inflexible routines • Dignity is undermined • lack of privacy during provision of intimate care, pooled underclothes, dentures 	<ul style="list-style-type: none"> • Bad practice not being reported and going unchecked • Unsafe and unhygienic living environments 	<ul style="list-style-type: none"> • Staff misusing power • Over-medication • Inappropriate restraint resulting in injury • Widespread, consistent ill-treatment
Professional	<ul style="list-style-type: none"> •Service design involves group living settings where residents are incompatible 	<ul style="list-style-type: none"> • Poor, ill-informed or outmoded care practice – no significant harm • Denial of access to professional support and advocacy 	<ul style="list-style-type: none"> • Failure to whistleblow about serious issues when using internal procedures does not result in a response • Failure to refer disclosure of harm 	<ul style="list-style-type: none"> • Failure to support adult to access health, care, treatments • Punitive responses to challenging behaviours • Entering a sexual relationship with a service user 	<ul style="list-style-type: none"> • Entering a sexual relationship with a service user who does not have the capacity to consent

***age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.*

INCIDENT AND ADULT PROTECTION LOG

NAME OF SERVICE _____

LOCATION _____

N.B. - This pro-forma should be completed for relevant incidents, guided by the above Thresholds Framework.

Care should be exercised in assessing the actions required, noting that any doubt about how to act should be discussed with internal management and Orkney Health and Care to ensure consistency of application.

Date	Service User Name	Managed (Tick below)			Issue Description	Action Taken	Outcome	Review Date	Completed by
		Internal	Refer for ASP	Refer to Police					

15. APPENDIX 4 - RISK ASSESSMENT FRAMEWORK

A. Harmer or Suspected Harmer

1. Perceived Power over / by Adult at Risk of Harm		
Seen as in a powerful position by Adult at Risk of Harm	Adult at Risk of Harm knows how to contact higher authority	Stranger or brief contact
2. Access to Adult at Risk of Harm		
Unrestricted and unsupervised	Unrestricted but supervised	In group situations only
3. Level of Contact		
Intimate Care or access to Adult at Risk of Harm finances	Support with activities of daily living	Social Contact
4. Access to other Adult at Risk of Harms		
Unsupervised access to Adults at Risk of Harm	Supervised access to Adults at Risk of Harm	Minimal contact with Adults at Risk of Harm

B. Features of the Adult at Risk of Harm

1. Physical Dependency		
Physically dependent for all functions	Physically independent but requires help or support to go out	Independent and can travel independently
2. Comprehension		
No comprehension of situation	Feels something is wrong	Aware that they have been abused
3. Access to Advocacy		
Isolated contact only with perpetrator or institution	Some contact with potential advocates	Regular contact with potential advocates
4. Judgment		
Complete trust in others	Some understanding that some things are wrong	Understands abuse and has some coping strategies

C. Features of the Harm

1. Physical likelihood and impact		
Deliberate assault or injury	Injury, pain, ill health due to inappropriate care	Limited discomfort felt by Adult at Risk of Harm
2. Psychological likelihood and impact		
Adult at Risk of Harm frightened	Adult at Risk of Harm confidence damaged	Emotional needs of Adult at Risk of Harm not recognised or met
3. Sexual likelihood and impact		
Sexual assault. Forces viewing of pornography	Inappropriate touching	Insensitivity to Adult at Risk of Harm's needs
4. Financial likelihood and impact		
Fraud or theft of large sum of money or property	Misuse of money or property belonging to Adult at Risk of Harm	Taking small items of little significance to Adult
5. Neglect likelihood and impact		
Life threatening or requires medical attention	Emotional or physical health affected by poor care	Adult at Risk of Harm's potential not fulfilled
6. Discriminatory likelihood and impact		

Threatening /discriminatory action	Refusing to meet specific needs	Failing to meet specific needs
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16. APPENDIX 5 - SUMMARY OF THE STAGES IN THE INVESTIGATIVE INTERVIEW

1. At the planning stage / meeting

- reflect on requirements for this adult e.g., the 'Planning Points Framework'
- location and timing?
- any special needs? / is this a complex case needing special arrangements?
- agree who will lead and who will be the support person.

2. Prepare the interview setting

- ensure there will be no interruptions (e.g., switch off mobiles)
- remove any distracting material.
- ensure adequate seating is available and laid out in a 'friendly' arrangement.
- record reasons, time and date, officers involved, adult's name and age.

3. Information about the interview and its record

- brief support person where one is to be present for any part of the interview.
- inform the adult and any other that the interview is to be recorded and in what way.
- check understanding and allow adult to ask questions.
- if adult objects, be satisfied that capacity has been considered.

4. Introductions

- record date and start & end times.
- introduce yourself to the adult, giving name, occupation, and role.
- allow adult to settle; have brief "icebreaker" chat about neutral event (e.g., TV)
- avoid mentioning the specifics of the allegation and avoid instilling any stereotypes about the alleged perpetrator.

5. Adhere to the interview principles throughout interview

- the adult will do most of the talking.
- the interviewer wasn't there so needs the adult's help to understand what happened..
 - it is OK to say "I don't know/remember/understand" and to correct the interviewer when they get something wrong
 - the adult should not guess, or make up any answers.
 - they should always tell the truth (i.e., what they saw with their own eyes, heard with their own ears, etc.).
 - if questions are repeated this does not mean the adult's first answer was wrong or thought to be a lie. It's about being clear.

6. Reminders for interviewers

- the recording includes pace, pauses, questions and body language of both interviewer and adult, and anyone else (such as a supporter) present.
- the interview should follow the adult's pace
- be tolerant of pauses; don't interrupt the adult
- be aware of signs of fatigue or loss of concentration. Let the adult know how long the interview might take and when breaks will be available.
- keep an open mind

7. Second interviewer

- take note of salient points only; remember that these will be aide memoire in court.

- focus on recording, monitoring the interview, welfare of the adult, alerting lead interviewer of points to probe.
- agree to use prearranged signals to contribute when invited.
- confirm with lead interviewer that all salient points have been considered.

8. Consider Rapport and whether a practice interview is required

- points of interest re-the adult - encourage a spontaneous narrative from the adult using facilitators, e.g., "That sounds interesting, tell me more..."
- avoid specific questions.

9. Raising topic of concern

- raise the topic, beginning with the least suggestive prompt.
- if this is not successful, proceed gradually onto more specific prompts.
- *avoid suggesting any wrongdoing (e.g., by using words such as "hurt", "bad")*

10. Free narrative

- encourage a spontaneous account from the adult using general probes, e.g., "Tell me about that"
- use open-ended prompts to follow when the adult has finished speaking, e.g., "And then what happened?"
- also use facilitators to keep the narrative flowing, e.g., "uh huh"

11. Questioning

- refer back to things that the adult has mentioned previously in free narrative.
- try to determine whether the episode of abuse was single or repeated.
- try to cover the sequence of topics in the same order as the adult raised them.
- use the least direct/specific types of questions wherever possible
- clarify any ambiguities, inconsistencies, or unfamiliar terms/names used by the adult, in a way that does not imply suspicion, disbelief or mockery.

12. Closure

- summarise main evidential points using adult's language as much as possible.
- check whether second interviewer has any questions.
- ask adult if they have any questions.
- don't make promises that cannot be kept.
- provide contact names/addresses/numbers.
- thank adult for their time.
- revert to neutral topics.

Adapted from - Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland. Scottish Government 2011 (Also applicable for 'vulnerable witnesses')

17. APPENDIX 6 - INVESTIGATIVE INTERVIEW RECORDING TEMPLATE

(Expand Boxes as necessary)

Name:

Address:

Date of Investigate Interview:

Staff Involved in Interview

<p>Comments:</p> <p>Confirmation that all communication needs have been addressed:</p> <p>Confirmation that the Adult agreed to answer questions and is aware of his/ her right to refuse to answer any questions:</p> <p>A description of where the interview took place and a record of the date:</p> <p>Those present during the interview:</p> <p>The adult's attitude and presentation:</p> <p>The start and finish time:</p>
<p>The Interview:</p> <p>A detailed summary is required which clearly records salient points. Any comments about being harmed should be recorded in the adult's own words and (wherever possible) use of quotation marks should be used to convey this was the exact, verbatim words of the adult.</p>
<p>Non-verbal signs and long pauses:</p> <p>Breaks in the interview and the reasons why these were necessary:</p> <p>Any changes in the interviewee:</p>
<p>**Additional information added immediately after the interview:</p>

Officer Signature: _____

Officer Signature: _____

Lead Officer Adult Protection: Signature: _____

**If any important aspect of the interview is not recorded, the interviewers can review the written record immediately after the interview and add the issues that were not timeously recorded. They should sign this to show that they added these elements at the conclusion of the interview.

Original copies of interview records should be retained.

18. APPENDIX 7 - ADULT PROTECTION REFERRAL- FORM AP1

ADULT PROTECTION REFERRAL FORM (AP1)

NAME		D.O.B.	
HOME ADDRESS		CURRENT ADDRESS	
POSTCODE		POSTCODE	
TEL No.		TEL No.	
GENDER		ETHNIC ORIGIN	RELIGION
COMMUNICATION NEEDS			
GP NAME & ADDRESS			

REFERRER DETAILS (please print)			
NAME		DESIGNATION	
AGENCY		DIRECT DIAL TEL. No.	
EMAIL ADDRESS			
RELATIONSHIP TO ADULT BEING REFERRED			
SIGNATURE			
DATE			

IS IT SUSPECTED THAT A CRIME HAS BEEN COMMITTED AND HAVE POLICE BEEN INFORMED? (include date, time and action taken etc.)

DETAILS OF CONCERN	
1. IN YOUR OPINION IS THE ADULT ABLE TO SAFEGUARD THEIR OWN WELLBEING, PROPERTY, RIGHTS OR OTHER INTERESTS? (If no , please state reason)	
2. IN YOUR OPINION IS THE ADULT AT RISK OF HARM? (if yes , please state reason)	
3. IN YOUR OPINION IS THE ADULT AFFECTED BY DISABILITY, MENTAL DISORDER, ILLNESS OR PHYSICAL OR MENTAL INFIRMITY (if yes , please specify)	
GIVE DETAILS OF HARM (SUSPECTED / WITNESSED / DISCLOSED / REPORTED). DATES, PROTECTIVE ACTIONS TAKEN INCLUDE DETAILS OF ANY PREVIOUS CONCERNS. (please use separate sheet if required)	
HAVE YOU (OR ANY OTHER PERSON) TOLD THE ADULT THAT THIS INFORMATION WILL BE SHARED WITH SOCIAL WORK OR OTHER RELEVANT AGENCIES	YES / NO (delete as appropriate) If NO please state reasons

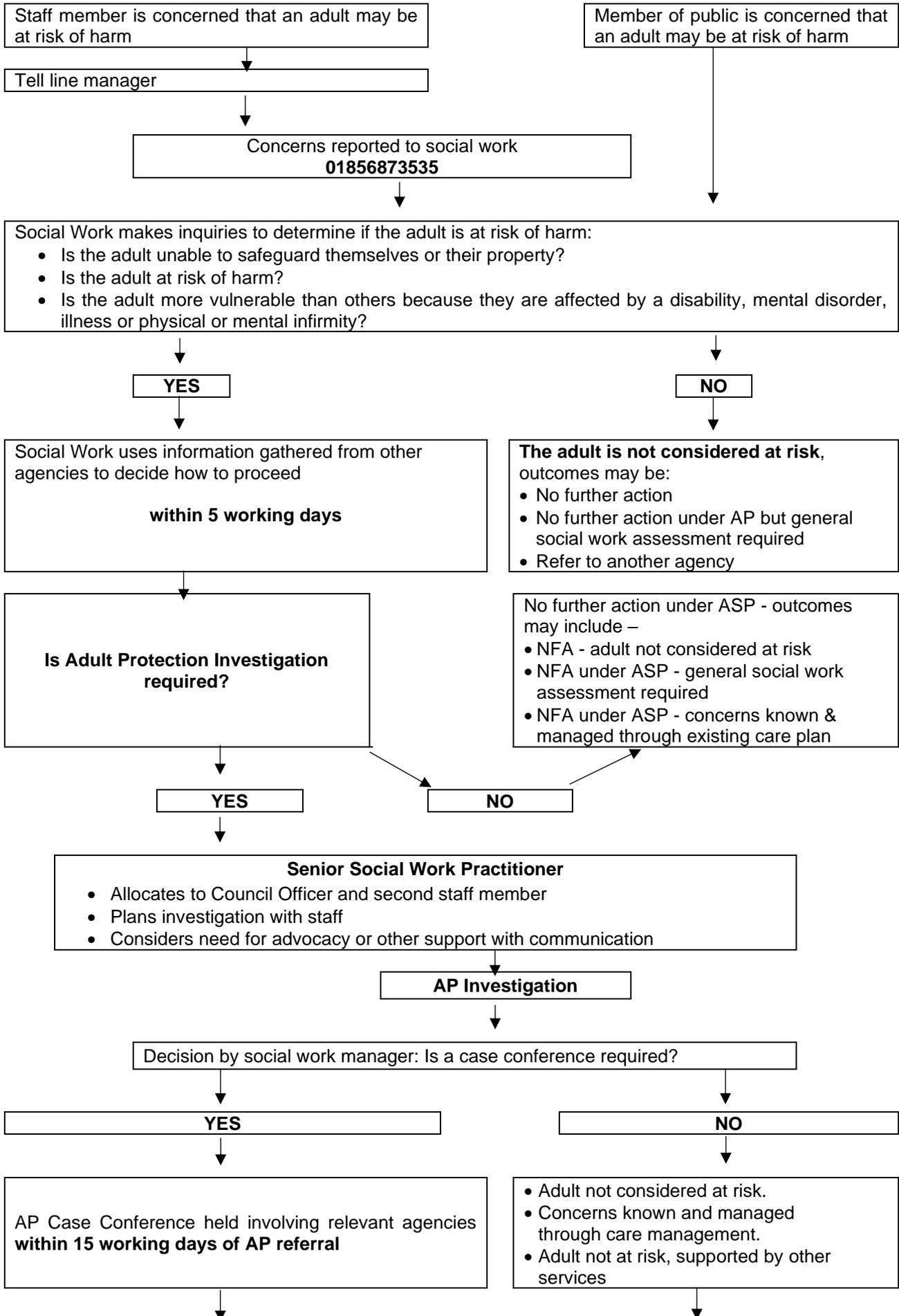
DETAILS OF PERSON SUSPECTED OF CAUSING HARM (If known) (please PRINT details)

NAME		RELATIONSHIP TO ADULT:	
ADDRESS		TEL NO	

DETAILS OF MAIN CARER / RELATIVE / POA / GAURDIAN (please PRINT details)

NAME		RELATIONSHIP TO ADULT	
ADDRESS		TEL. No.	

19. APPENDIX 8 – ADULT PROTECTION PROCESS



If Protection Plan put in place, review case conference set for 3 months and then 6-monthly



Referrer informed of outcome

APPENDIX 9 - PROTECTION ORDER TEMPLATE

Once completed and approved send to identified contact in the Council's Legal Department

1. TYPE OF APPLICATION (Delete as appropriate)	
(a) Removal Order (S14)* (b) Assessment Order (S11)* (c) Banning Order (S19)* (d) Temporary Banning Order (S21)*	
2. DETAILS OF COUNCIL OFFICER	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
3. DETAILS OF ADULT AT RISK	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
4. DETAILS OF NEAREST RELATIVE(S) (Please state relationship)	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
5. DETAILS OF PRIMARY CARER (if any)	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	

6. DETAILS OF OTHER RELATIVES OR RELATIVE PERSONS (Please state relationship)	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
7. DETAILS OF EXISTING GUARDIANSHIP/ATTORNEY (including any prior guardianships or intervention order)	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
8. DETAILS OF INDEPENDENT ADVOCATE	
Name:	Contact Tel No:
Email:	
Postal Address:	
<u>Extent of Involvement</u>	
9. HOW THE ADULT MEETS ADULT AT RISK CRITERIA (S3) - (including how the adult meets the criteria of being at risk of serious harm required for the granting of a protection order)	
10. BANNING ORDER IF REQUIRED	
a) Identify need for powers of arrest and state reasons	
b) Temporary banning order – specify time period	

11. WARRANT FOR ENTRY IF REQUIRED	
<p>a) State address of premises for which entry is to be gained</p> <p>b) State reasons for requiring a warrant including instances and dates of difficulties in gaining access to the adult at risk</p>	
12. TIMESCALE OF ORDER (including timetable for assessment/medical examination)	
13. DETAILS OF PLACE OF SAFETY, IF REQUIRED (including support in place)	
Name and designation of Person in Charge:	Contact Tel No:
Email:	
Postal Address:	
<u>Details of permission given</u>	
14. ASSESSMENT OF ADULT'S CAPACITY (specify formal assessment of capacity or professional judgement)	
15. CONSENT OF ADULT/ADULT'S VIEWS (if it has not been possible to gain consent or identify adult's views, state reason)	
16. VIEWS OF RELEVANT OTHERS	
17. EVIDENCE OF UNDUE PRESSURE (include specific instances)	
18. PREVIOUS AND CURRENT POLICE INVOLVEMENT (including any criminal proceedings)	

19. NARRATIVE OF REASONS - this should include:

- a) Brief social background
- b) Circumstances leading to current application
- c) Assessment of risk
- d) Appropriateness of order sought (including compliance with principles of the act)
- e) Informal measures tried
- f) Consideration of third sector voluntary sector contributions to investigation and planning.
- g) Intended outcome of intervention
- h) Any potential risks arising out of intervention (e.g., for adult at risk and/or other adults in household, for family relationships, housing issues etc)

20. REASONS WHY ANY PARTY SHOULD NOT RECEIVE INTIMATION OF THIS APPLICATION

(consider safety of the adult at risk and/or forewarning which may lead to action to obstruct pursuance of order)

SIGNED (COUNCIL OFFICER)	
DATE:	
SIGNED (Service Manager)	
DATE:	

20. APPENDIX 10 - ASP SCREENING – DUTY TO INQUIRE

See PARIS to complete this

21. APPENDIX 11 – INVESTIGATION AND RISK ASSESSMENT – FORM AP2

See PARIS to complete this form.

**22. APPENDIX 12 - TEMPLATE LETTER RE: FURTHER
INQUIRIES UNDER ASP**

Tel :
Fax :
Email :

Date:
Your Ref:
Our Ref:
Enquiries to:

Dear

Notification of the outcome of an Adult at Risk inquiry

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of
<enter name here>

We have considered the information and have concluded that it would not be appropriate to undertake further inquiries under Orkney Islands Council Adult Protection Procedures.

Yours sincerely

Senior Social Work Practitioner

23. APPENDIX 13 - NOTIFICATION OF THE OUTCOME OF ADULT AT RISK INQUIRY – Alternative action taken

Date:
Your Ref:
Our Ref:
Enquiries to:

Dear

Notification of the outcome of an Adult at Risk inquiry

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of **<enter name here>**

We have considered the information and have concluded that it does not require further inquiries under Orkney Islands Council Adult Protection Procedures. However, we have taken alternative action to address the issue of this individual's vulnerability. **<advise of action>**

Yours sincerely

Service manager

24. APPENDIX 14 - NOTIFICATION OF THE OUTCOME OF AN ADULT AT RISK INQUIRY – Further Inquiry / Investigation and possibility of a multi-agency conference

Date:
Your Ref:
Our Ref:
Enquiries to:

Dear

Notification of the outcome of an Adult at Risk inquiry

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of
<enter name here>

We have considered the information and will undertake further inquiry/investigation (delete as appropriate) under Orkney Islands Council Adult Protection Procedures. Should our inquiry/investigation result in a multi-agency case conference, we will forward you an invitation to attend.

Yours sincerely

Service Manager

25. APPENDIX 15 - LOCAL AUTHORITY APPLICATION FOR DISCLOSURE OF INFORMATION

under Section 10 of the Adult Support and Protection (Scotland) Act 2007

Date:

Your Ref:

Our Ref:

Enquiries to:

Dear

Re: Request for Information Under Section 10 Adult Support and Protection (Scotland) Act 2007 (ASPA)

I, (name), in my role as Council Officer for [Orkney Islands Council and where the power is delegated from the local authority state 'with delegated authority and powers in relation to this request under s1(5) of the Public Bodies (Joint Working)(S) Act 2014 from Orkney Islands Council] formally require disclosure of information from (company/organisation name and address). The request is made under Sections 4 (Inquiry) and 10 (Examination of Records) of the Adult Support and Protection (Scotland) Act 2007 (the Act) on the basis that we know or believe the below named to be an "adult at risk" as defined by the Act.

Please contact the Council Officer named above upon receipt of this request for records to discuss the provision of the information required. The professional title of the Council Officer may vary as per the definition of Council Officer in the attached information sheet. *If for any reason, you are unable to comply with this request, please contact the Council Officer immediately and advise them of your reasons in writing* as a person commits an offence by, without reasonable excuse, refusing or otherwise failing to comply with a requirement made under section 10 of the Act.

All information provided will be managed within the terms of the Act, the Data Protection Act 2018 ("DPA") and the General Data Protection Regulation ((EU) 2016/679) ("GDPR").

Please see the *Information Sheet* attached regarding the legal context of this request and provide the information below:

Name of Adult	
Date of Birth (if available)	
Address (if available)	
Relevant reference numbers (please state which reference is being used e.g. national insurance, CHI etc.)	
Brief Description of the ASPA Inquiry	
Information that is required (please include any third party mandates relating to the information located)	
Information Format required	<input type="checkbox"/> <i>Hard Copy</i> <input type="checkbox"/> <i>Electronic Copy to the stated email addresses above (where available)</i>
Information Required by	<i>Date Month Year</i>
Council Officer's Name, Contact Details and Signature	

Yours faithfully

Council Officer
Orkney Islands Council.

Information Sheet

Designated Agency Application for Disclosure of Information under Sections 4 and 10 of the Adult Support and Protection (Scotland) Act 2007. The Adult Support and Protection (Scotland) Act 2007 (the Act) gives councils and other public bodies working with them various powers to support and protect adults at risk (as defined by the Act). The Act states the following;

The Adult Support and Protection (Scotland) Act 2007, (the Act) confers on 'Council Officers' a duty to investigate cases of suspected harm to an 'adult at risk'. As part of this investigation, records pertaining to the adult at risk can be requested. Bodies holding these records have a legal duty to co-operate with the investigation. Failure to do so, without reasonable excuse, can amount to the commission of an offence under the Act making the individual liable on summary conviction to a fine or imprisonment, or both. "Council Officer" means an individual appointed by a council (local authority) under section 64 of the Local Government (Scotland) Act 1973.

Section 4 of the Act states that a council [or delegated agency] must make inquiries about a person's wellbeing, property or financial affairs if it knows or believes that the person is an adult at risk, and that it might need to intervene to protect their wellbeing, property or financial affairs. As part of this process, Section 10 of the Act stipulates: A Council Officer may require any person holding health, financial or other records relating to an individual whom the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer. Where there is any doubt about the identification of the Council Officer the organisation receiving the request will verify this.

Section 3 of the Act defines an 'adult at risk' as an individual aged 16 or over who is unable to safeguard their own well-being, property, rights or other interests and is at risk of harm. In such instances and where the person is more vulnerable to harm because of a disability, mental disorder, illness or infirmity, the Act can be used to protect them.

The request does not require the consent of the individual, any power of attorney or guardian before the required information is provided, as in some circumstances the adult in question may be placed at greater risk of harm. Under section 49(2) of the Act it is an offence for a person or an organisation to fail to comply with a requirement made under section 10, without reasonable excuse. Whilst you will be concerned about confidentiality, it is important to note that NOT sharing this information may place the adult at further risk of harm. Please refer to your internal guidance. Any information received in the course of an investigation is treated with the utmost confidence and will not be disclosed to any third parties other than in accordance with the provisions of the above Act and other relevant legal requirements.

For the avoidance of doubt, data processing in relation to this request is necessary for compliance with legal obligations [sections 4, 10 and 49(2) of the Adult Support and Protection (Scotland) Act 2007] to which the local authority, the Council Officer and the organisation in receipt of this request are subject. Organisations could also rely on Article 6(1) (e) of the GDPR, as read with section 8(c) of the DPA, namely the necessity of processing for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, as a lawful basis for processing (i.e. passing on) personal data to a local authority. Where data sharing is necessary to ensure safeguarding but is not specifically covered by the Act, legal advice should be sought.

Should you be unfamiliar with the Adult Support and Protection (Scotland) Act 2007, you can view a copy of it at: [http://www.legislation.gov.uk/asp/2007/10/contentsUse of Information ReceivedUnderSection10](http://www.legislation.gov.uk/asp/2007/10/contentsUse%20of%20Information%20ReceivedUnderSection10)

26. APPENDIX 16 - DWP FORM FOR COUNCIL OFFICERS

ADULT SUPPORT AND PROTECTION

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

Overview

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

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

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

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

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

Whilst the ASP Act is not recognised as an enactment by the Social Security Administration Act 1992, it is a key tool for safeguarding adults at risk in Scotland. Co-operation between organisations which hold information about people who may be adults at risk is central to the ethos of the Act, and it is necessary to ensure that steps can be taken to support and protect adults from harm.

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

Request for information under section 10 of the ASP Act

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

Name of person	
National Insurance Number * and/or Date of Birth & Address (* National Insurance Number preferred identifier)	
Brief reason why the information is requested and the use that will be made of it	
Information that is requested	

Requestor's name, position, organisation, address and telephone number.	
---	--

CONTACT DETAILS

GENERAL ENQUIRIES

Cathy Martin Service Manager

27. APPENDIX 17 - MEDICAL EXAMINATION

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

Chi No: PARIS No:
(if unknown, please state unknown)

Title: First Name(s): Surname:

DOB: Gender: M F

Patients Home Address:
.....
Postcode:

Ethnicity: Language: Disability: Y N

Health Professional's details

Title: First Name(s): Surname:

Work Address:
.....
Post Code:

Employer (if applicable):

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

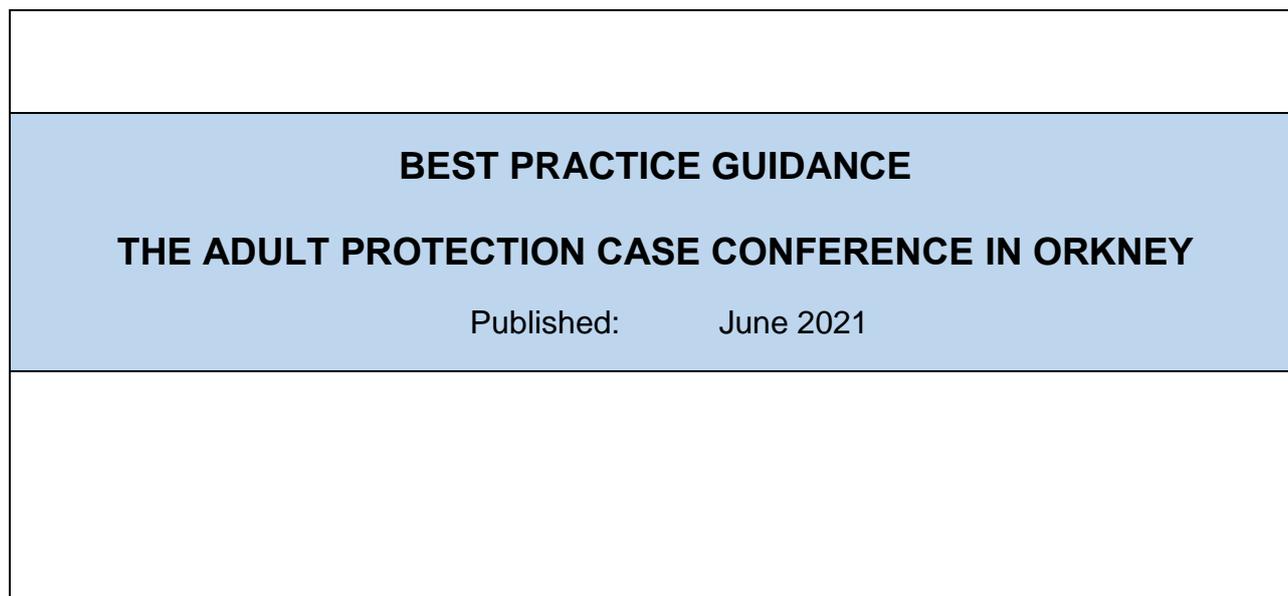
.....
.....
.....

Council Officer's Signature Designation

Print Name: Council

Address

28. APPENDIX 18 – THE ADULT PROTECTION CASE CONFERENCE IN ORKNEY



1. Guidance – Case Conferences – Orkney APC

Case Conferences are convened to ensure that an adult who is believed to be 'at risk', along with their preferred supporter(s) meets with workers actively involved with them to consider all the information which has led to them being identified as an adult at risk and to identify how those risks can be managed with the consent and partnership of the adult.

In all cases it should be the practice that the adult subject of an adult protection referral attends decision making meetings about how the risks to them are identified and managed.

Furthermore, it is fundamental to the follow up of adult protection referrals that the adult about whom the referral is made is at the centre of decision making.

Where that person lacks capacity, discussion with them about their view of their situation should still take place and their ability to make decisions should be maximised

Where it is believed that attendance at a case conference would be detrimental to the adult then this should be noted – however unless the capacity of the adult is compromised to a degree that understanding is absent then the adult should be informed of the concerns and their views sought about how the matter should be responded to.

In all cases the adult should be offered the support of an **independent advocate** as soon as possible to the date of the referral. Any reason for not doing so should be noted.

2. The Case Conference

An Adult Protection Case Conference is a multi-agency forum, held to share information and share decisions about how to support and protect an adult deemed to be at risk in circumstances where harm has occurred or is suspected. All case conferences should maximise the involvement and participation of the adult in the decision.

Case conference decisions will always seek to protect an adult through 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 agency reports should be submitted before the case conference and the AP2 Risk Assessment will have a completed chronology of significant events to inform the meeting and assist with Protection Planning. The adult and/or their representative may also wish to submit a report or viewpoint for consideration at the case conference and the responsible social work manager should ensure that all information is passed to the Chairperson as soon as possible.

3. Ongoing Police Inquiries

It is recognised that where police investigations are ongoing that there could be a significant delay in finalising the police inquiry. In such circumstances a Case Conference should proceed albeit with a modified agenda as outlined below, in this guidance.

4. Responsibilities of the Chairperson

The chairperson will be an experienced manager and ought to be independent of the investigation.

It is acknowledged that as some social work services become part of CHCPs, operational managers may have different professional backgrounds. It is recommended that any manager chairing an ASP case conference should have completed the ASP Council Officer training in line with local requirements and in addition should undertake Case Conference Chairing training as provided by Orkney APC

Chairs will attend a minimum of two liaison meetings annually.

Chairs must have experience in risk assessment and protection planning, and have a working knowledge of the Adults with Incapacity (S) Act 2000 and the Mental Health Care and Treatment (S) Act 2003 to ensure that decision making is informed by an appropriate legislation knowledge base. Where the Chair lacks this knowledge then an appropriately trained Senior Social Work Practitioner, Mental Health Officer or member of legal services should be in attendance to give advice.

The Chairperson will –

- Where necessary meet professionals attending the case conference prior to its commencement to share updated information e.g., exclusions from the case conference, information that has come to light within a short timeframe of the meeting being convened etc.
- discuss with the police any restricted information which would make an impact on decision making at the conference (restricted information should not be shared at the Case Conference)
- Ensure that the principles of the 2007 Act are observed.
- Confirm that any communication aids/systems (e.g., loop system) are in place.
- Rule on requests for a family member and / or carer to be excluded from the case conference and ensure that reasons for this are recorded in the minute.
- Check that the adult and carer/ representative understands the purpose and process of the case conference and explain this if necessary.
- Ensure that all attendees have relevant information to the matter in hand – seek to keep the meeting to a size which allows the adult to participate as fully as possible.
- Advise all present of the facility to ask for an adjournment at any time during a case conference.
- Where a family member and/or carer has been excluded from the case conference the chairperson must ensure that the decisions are fed back to them as soon as practicable (person and timeframe) after the case conference.
- In circumstances where the ‘adult’ does not attend the case conference the chair will confirm who will give feedback to the adult and the timeframe for doing so.

- Ensure that the minutes of the meeting are distributed to the appropriate attendees and, where appropriate, the adult, family and/or carer within 5 working days of the case conference.
- Ensure that all present have the opportunity to contribute to the protection plan discussions.
- Ensure that the adult's view of the risk and protection plan are sought, respected and recorded.
- Take responsibility for decision making within the case conference and subsequent review case conferences.

In the case of any serious dispute/dissent or complaint that cannot be resolved within the case conference the chairperson will refer to **the Chief Social Work Officer** (see section on Dispute/ Dissent/ Complaint) and follow local social work procedures to ensure that the issue is appropriately managed.

5. Good Practice in Adult Protection Case Conferences

Case conferences should be an inclusive process involving the adult at risk of harm and all relevant agencies with an interest.

Consideration as to how the adult or relatives, carers might most effectively participate should be thought through before the commencement of the meeting.

At the commencement of the Case Conference the Chair should ensure that –

- The purpose and process of the Case Conference has been fully explained.
- That the adult is present and if not the reason for this is noted.
- That the independent advocate is present and if not the reason for this is noted
- When someone is unable to attend through lack of capacity, that their representative is present. The status of this representative should be recorded (Guardian/POA/friend/etc.)
- Attendance for part of the meeting is an option where agreed if there are areas an individual will find too distressing. When this is the case there should be the facility for the adult to be consulted out with the meeting and their views appropriately represented if this is their preferred option.
- Adults should not be required to confront alleged harmers where this may be distressing
- Attendance should be at the discretion of the chairperson. The chairperson should ensure that where there are substantive grounds to believe that the involvement of someone in the conference would undermine the process or serious conflict is liable to emerge, or where sub-judice information is being presented, that person is excluded.
- Where a police investigation is ongoing a case conference should be convened in line with the guidance noted on page 7.
- Where an alleged perpetrator is also seen as a person at risk, a separate case conference should be convened to address their needs.

6. Invitations to Adult Case Conference

Invitations will be made by the team/area manager overseeing the inquiry (with the aid of admin staff). The **Senior Social Work Practitioner** will confirm with the Service Manager that all relevant people have been invited to the Case Conference.

If the Chairperson is asked to exclude anyone the reasons for this must be formally recorded by the council officer and the Chairperson and a decision made before the meetings starts The Chairperson's decision should also be recorded in the minute.

Attendance at the adult protection case conference should include those of the following who are **currently actively involved** with the adult or with the allegation being dealt with:

- Investigating officer(s) [the Council Officer and second worker]
- The adult at risk of harm and/or their representative
- Independent advocate
- Carer or relative (having regard to wishes of the adult).
- If the adult has identified a named person in relation to the 2003 Act, the adult may seek the attendance of the named person.
- Any other person the adult wishes to name instead as their representative
- G.P.
- Police
- Staff from any regulatory bodies such as the Care Inspectorate
- Care Provider Organisations directly involved with the adult
- Legal Services
- Any Proxy decision makers (attorney or guardian)
- MHO for specialist advice if there are potential for issues arising in relation to mental disorder or lack of capacity
- Housing / homelessness organisation.

7. Exclusion from Case Conference

Practice in this area should be characterised with a genuine wish for involvement of carers/family and the adult who is thought to be at risk. It is only where there are substantive grounds to believe that the involvement of carers/family would undermine the process and purpose of the case conference that they should be excluded throughout.

Grounds for exclusion could be when:

- A level of conflict or tension exists within the carers/family.
- When there is substantive evidence to believe that there is a likelihood of violent or serious disruption of the process of the case conference.
- Carers/family may also be excluded when third party or sub-judice information is being presented to the case conference.
- Being an alleged abuser is not sufficient reason in itself to exclude a carer or family member, but this may be judged necessary by the chairperson if their presence would seriously affect the consideration of the risk to the adult concerned.
- Where the carers/family has been excluded throughout the case conference it is the responsibility of the chairperson to ensure that they are informed of the outcome (by whom and by when)

8. The Process and Content of the ASP Case Conference

The case conference should, as far as is possible, be conducted in a way which maximises the involvement of the adult at risk unless the adult wishes simply to be present.

The adult should be offered the opportunity to comment on contributions to the meeting.

The case conference should be person centred and the content of the meeting should include –

- Introductions** - Introductions as to the purpose of the case conference and introductions of those present should be carried out as per the procedure above.
- Fact Gathering** - professionals share information beginning with the circumstances of the referral and conduct of inquiries
- Consideration of legislation** [also AWI, MH(C&T)]

- iv. **Assessment of Risk**
- v. **The view of the adult of the risk**
- vi. **The views of other people attending the meeting of risks**
- vii. **The council officer's draft risk assessment**

The terms of the risk assessment are also intended to provide not only for a balanced response to individual rights and agency responsibilities, but also a balanced view about the potential gains and losses from future protective action. Responses to adult protection concerns should be proportionate and must take the adult's view seriously.

9. Case Conference Discussion

The discussion should generally flow as follows.

- **Interpretation and Assessment** - The chairperson should lead discussion that focuses on:
 - The risks to the **adult's** wellbeing and/or any specific dangers to the adult
 - The adult's strengths
 - The adult views of the risks and costs of to them of proposed protective action
 - The strengths of the carers/family/support network
 - The extended family, professional and community supports.
- **Decision** - The case conference needs to decide whether the adult and/or any other person is believed to be at risk of harm and if so –
 - Consideration of a referral to the police, if not already done so in the course of the referral and investigation, where it is now believed that a crime may have been committed.
 - The adult's view of the decision should be sought and recorded.
- **Protection Planning** - Where it is agreed that the adult is at risk of harm an adult protection plan must be agreed. (See Appendix 19 Protection Plan – Form AP3)
 - Identify what action(s) will be taken to reduce the risk to the adult.
 - Consideration of the need to apply for orders.
 - Discuss with the adult their roles and responsibilities in the protection plan.
 - Make arrangements for implementing and reviewing the protection plan.
 - Clarify the roles and responsibilities which will be taken by family and others in the adults support network.
 - Clarify the roles and responsibilities which will be taken by support staff and professional workers.
 - Appoint a core group co-ordinator who is designated as a council officer.
 - Identify a core group who will work with the core group co-ordinator to make arrangements for implementing and reviewing the protection plan.
 - The date of the first core group should be set on the day of the case conference and be held as soon as possible after the case conference (maximum time frame 15 working days).
 - Appoint a core group co-ordinator who is a council officer. The adult should be invited to participate in the core group.
 - Set a review date, which must take place within 3 months initially and then every six months or according to circumstances.

It must be remembered that competent adults can choose not to accept all or part of support/protection plans. In such circumstances it is the responsibility of those seeking to support /

protect the 'adult at risk' to seek to come to some agreement with the adult about how/if contact can be maintained albeit on a less formal basis.

10. The Case Conference – When Ongoing Police Inquiries

The case conference should, as far as is possible, be conducted in a way which maximises the involvement of the adult at risk unless the adult wishes simply to be present.

The adult should be offered the opportunity to comment on contributions to the meeting.

- **The case conference should proceed as above section 8** – it should be person centred and the content of the meeting should be similar with the following exceptions –
 - The meeting should not seek information about the incident which led to the police inquiry.
 - Rather than go through the fact gathering aspect of the case conference there should be reference, in general terms, about the circumstances leading to the meeting.
- **Background information** - the circumstances relating to the adult which can inform risk assessment and protection planning. Reports from agencies can be made but not in relation to the matter under police investigation.
- **Assessment of Risk and Discussion** – note that the terms of the risk assessment are intended to provide a balanced response to individual rights and agency responsibilities, but also a balanced view about the potential gains and losses from future protective action. Responses to adult protection concerns should be proportionate and must take the adult's view seriously.
- **Interpretation and Assessment – as above section 8.**
- **Decision** - The case conference needs to decide whether the adult and/or any other person is believed to be at risk of harm and if so the adult's view of the decision should also be sought and recorded.
- **Protection Planning** – as above section 8.

11. Case Conference Minutes

The **Chair** has the responsibility to ensure an accurate record of the discussion and key decisions by way of case conference minute (AP4) is undertaken.

It is important that an accurate record of the salient features of the discussions and of the decisions reached at the Adult Protection Case Conferences is made and kept. These records will form part of the basis of defensible decision-making.

It is advisable for minutes to make clear -

- That they are a record of a meeting held under the auspices of Adult Protection and Support (Scotland) Act 2007 and therefore that those attending understand the basis upon which the meeting is held –including the confidential nature of the proceedings and the minutes.
- Who attended the meeting and in what capacity?
- Who was invited but did not attend?
- The identity of the adult at risk.
- A summary of the fact finding.
- A summary of the discussion
- Those issues which are relevant to the assessment and the management of risk

- For each risk factor identified there should be a corresponding response as to how that factor will be managed
- The actions to be taken as a consequence of the discussion, who will take them, in what timescale and how these actions are intended to reduce/manage the risk – a SMART action plan.
- Action points from the meeting should be reflected in a focussed and clear Minute and completed Protection Plan.
- Throughout the meeting the views of the adult must be recorded.

12. Distribution of Case Conference Minutes

The minutes of the meeting should be treated as confidential. The minutes should only be given to those attending the meeting and should be seen only by those persons who have the authority and duty to consider what was discussed and decided.

It is the Chairpersons responsibility to ensure that confidential information is only shared with appropriate parties. The minutes should therefore be kept safely and securely so that their confidence is preserved.

Minutes can only be distributed by the following means –

- **By secure mail to:-**

PoliceScotland	.pnn addresses
NHS staff	.nhs.scot addresses
Other councils	.gov.uk addresses

All other minutes should be distributed by recorded delivery only or by hand by council staff as agreed at the case conference.

13. Protection Plan – Form AP3

The Case Conference Chair has up to **10 working days**, from the Case Conference being held, to distribute the Minutes of the Case Conference and the SMART Adult Protection Plan.

The Protection Plan (Form AP3) has been designed for use when allegations of abuse/exploitation have been made and an Adult Protection Case Conference has agreed that there is a risk of serious abuse or harm; or when high levels of risk cannot be managed within a normal Care Plan.

The format for the Protection Plan assumes that, reflecting good practice, there will be a Lead Worker to co-ordinate protection work and that, in most cases, there will also be a core group of workers from different agencies and services as appropriate.

Core group meetings should take place between case conference and review and will be subject to local arrangements. These meetings are important and all members of the multi -agency group are expected to attend.

Thus, a multi-agency approach is implemented throughout the whole process, including regular liaison between more formal review meetings.

As indicated earlier, the Protection Plan AP3 form can be used as a stand-alone document and updated as part of an ASP review process.

The content of an AP3 might include –

- Community or other support requirements
- Decision to apply for Banning Order (or not) – Service Manager consultation with Legal Services.
- Contingency / relapse plan
- Key worker/care manager responsibilities
- Partner agency interventions and responsibilities
- The Protection Plan and Case Conference Minutes must be distributed in writing within **10 working days** of the Adult Protection Case Conference taking place and should be signed by the Chairperson. This is also the case for any subsequent Review Meetings.

14. Case Conference Dissent / Dispute / Complaints

Any agency, the 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.

Under the Adult 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 Chair of the Case Conference holds ultimate responsibility for decision making within the Adult Protection Case Conference and subsequent Review Case Conferences. However, any serious dissent / dispute or complaint must be reported to the Head of Service and local procedures followed to deal with disputes and complaints.

15. Adult Protection - Review Case Conference

A Review Case Conference should be held within **3 months** or less of the initial Adult Protection Case Conference. Future reviews should be held as required and in line with council procedures.

The Date Of the review case conference **must** be set at the preceding Case Conference.

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 a shortfall has been identified
- Review and, if necessary, up-date the Protection Plan and associated service provision
- Ensure intervention or legal powers exercised in relation to the Principles remains proportionate and are the least restrictive option in terms of maximising benefit and offering effective protection to the adult.

29. APPENDIX 19 – PROTECTION PLAN – FORM AP3

This form must be used when allegations of abuse/exploitation have been made and an Adult Protection Case Conference has agreed that there is a risk of serious abuse or harm; or when high levels of risk cannot be managed within a normal Care Plan. The Protection Plan should be completed within two weeks of an Adult Protection Case Conference.

DATE OF PROTECTION PLAN:

1. PERSONAL DETAILS – ADULT AT RISK

First Names:		Surname:	
Date of Birth:			
ID Number:		CHI No	

2. AGENCY/STAFF INVOLVEMENT

Agency/staff involved in risk management, co-ordination and review	
Lead Worker's Name	Post and Agency
Names of Core Group Members	Post and Agency

Date:

3. ACTIONS

SUPPORT AND PROTECTIVE SERVICES			
<i>Actions and Roles, which define services to be in place and procedures to be followed, with responsibilities, timescales and outcomes identified involving service users, carers, members of the core group and all other agencies involved in the Protection Plan. These should include immediate or longer-term actions; both benefit enhancing and harm reducing measures, and roles of services, the adult, advocates, unpaid carers attorneys and guardians, as appropriate.</i>			
Actions and Roles	Responsibility	Timescales/Deadlines	Intended Outcomes
a) Support, treatment, therapy <i>(specify services)</i>			
b) Control measures <i>(including any legal action)</i>			
c) Direct contact with person			
d) Risk management with perpetrator			
e) Information sharing arrangements			
f) Risk management coordination			
g) Other Actions			
h) Other Actions			

Date:

4. VIEWS AND ROLES OF ADULT AT RISK AND OTHERS

Adult's view of Protection Plan:
Advocate's view of Protection Plan:
Unpaid Carer/s view/s of Protection Plan:
Guardian/Attorney's view/s of Protection Plan:
Agencies dissenting from Protection Plan:

5. CONTINGENCY PLAN (*identify significant changes which might occur and what additional or alternative action should be taken in that event, such as case conference or legal action*)

Significant changes suggestive of additional risk / harm	Action if significant change occurs	Responsibility

6. DISTRIBUTION OF PROTECTION PLAN

(Distribution to be identified which takes account of confidentiality and third party information issues)

Person/Agency	Name and Designation	Sent copy of Protection Plan (date, or N/A)
Adult at risk		
Nearest relative/carers		
Named person		
Advocate		
Social Work staff		
Support Agency		
Community Health		
G.P		
Consultant		
Police		
Housing		
Legal Representative		
Attorney/Guardian		
Others		

7. REVIEW ARRANGEMENTS

Review Date:	Review Location (if known):

Protection Plan approved as accurate and confirmed copied to set agencies and Core Group members

Signed by Case Conference Chair:

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Date:

30. APPENDIX 20 – LARGE-SCALE INVESTIGATION IN ORKNEY

	Orkney Adult Protection Committee LARGE-SCALE INVESTIGATION
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1. Background

This document sets out much of the framework for a large-Scale investigation and provides essential information about the context and process for such a complex piece of work. This procedure details the steps that should be followed in Orkney when the need for a large-Scale investigation is considered.

2. Definition of a Large-Scale Investigation

A large-Scale investigation is a multi-agency response to circumstances where there may be two or more adults at risk of harm within a care setting (this may be either residential care, day care, home based care or a healthcare setting).

3. Purpose of the Protocol

The purpose of this protocol is to:

- Ensure that there is a shared understanding amongst partner agencies of the criteria, scope and responsibilities relating to a large-Scale investigation.
- Ensure that large-Scale investigations are carried out consistently across Orkney.
- Clarify the responsibilities of the different partner agencies involved in a large-Scale investigation.
- Ensure that there is adequate overview / co-ordination where a number of agencies have key roles to play.
- Offer a framework for an alternative process to holding large numbers of individual Adult Support and Protection investigations.

4. Criteria

A large-Scale investigation should be considered in a situation where there appear to be multiple adults at risk / multiple settings / multiple harmers and senior managers consider that a large-Scale investigation is the most appropriate way to respond to the concerns

Examples may be:

- **When an adult protection referral is made that involves a number of adults.** For example: more than adult at risk has been potentially maltreated or neglected and as a result experienced significant harm – e.g., one domiciliary care worker intimidates and threatens more than one adult with learning disabilities in a supported living environment resulting in them being frightened and scared.
- **Where a number of harmers are suspected.** For example: more than one person work together to maltreat or neglect adult/s at risk – two or more carers/PA's work together to financially abuse adults living in their own home.
- **Where institutional harm is suspected.** For example: potential or actual harm due to poor or inadequate care or support or systematic poor practice that affects the whole care setting – Residents must go to bed before night staff come on duty, cannot get food or drink during

the night, call bells are taken off people and residents are left all night in soiled beds or pads resulting in a loss of dignity and experiencing degrading practices.

- **Where there have been 3 or more adult protection investigations within a 12-month period** related to the same service where the outcome indicates that serious harm has been caused. For example: Financial harm investigated in January, Medication errors resulting in harm investigated in April and missed calls resulting in serious harm referred in September – all the same agency but different service users. All significant areas of concern signifying the agency is not operating a safe service with continuous improvement.
- **Where a whistleblower makes allegations about the management or regime of a service.** For example: A whistle-blower alleges the manager of a service instructs staff to water down the milk, use out of date food, portions of food are insufficient—and intimidate or threaten them with the sack if they tell anyone else. Staff often bring in extra food for residents who complain they are hungry.
- **Where the situation is very complex and where special planning and coordination of the investigation is required.** For example: The investigation will require input from a number of agencies and people such as medicines management, tissue viability, health and safety, Care Inspectorate, Police. – staff who have neglected people resulting in medication errors, pressure sores and unsafe equipment will of necessity require assessment from a variety of disciplines.
- **Where an investigation into one allegation leads people to strongly believe other people may also be victims of the same harm.** For example: an adult complains of being hungry because there is no food. A visit to the home identifies little food, staff shortages or it could be a complaint about inadequate heating, broken equipment that could result in harm e.g., hoists or hand rails broken. Degrading practice towards residents is established.
- Where there are significant concerns about the quality of care provided and there are concerns about the services ability to improve. For example: high number of low-level concerns and complaints are being raised from various people and agencies, there is no registered manager, high staff turnover and generally the environment is poor and service users look neglected and uncared for. Previous involvement with the service indicates the home does not improve quickly enough or is able to sustain improvements.

5. Initiation of a Large-Scale Investigation

- i. In all cases of suspected harm in any setting, a referral should be made to the social work team for the local area. Social work staff have a duty to undertake initial inquiries under the ASPA. The inquiries include contact with other key agencies and aim to identify whether or not the adult is or was at risk of harm. All adult protection referrals and the inquiries made should be recorded on the adult protection referral form in PARIS or each individual adult.
- ii. Where an adult has been assessed to be at risk of harm from a care service, consideration should also be given to whether or not other adults receiving the same care or other residents in the same care setting may also be subject to the same harm. Following the information gathering, the member of the social work team conducting the inquiries should discuss this with the appropriate team leader.
- iii. If there is a concern that others may be at risk, the team leader should alert the Service Manager in order that their views are sought, and any other relevant information shared between agencies to agree the level and scale of risk to service users.
- iv. If it is agreed that the criteria for a large-scale investigation have been met, then contact should be made with a Service Manager who will assume responsibility for the investigation.

6. Conduct of a Large-Scale Investigation

Initial Actions

- i. The Service Manager will liaise with the Public Protection Officer and ensure that the following actions are undertaken:
- ii. Contact will be made with relevant health managers and Police Scotland to undertake an initial discussion focussing on:
 - o Whether any immediate protective action is required for one or more service users.
 - o The initial impact assessment
 - o Whether a multi-agency planning meeting should be convened to take the final decision as to whether a large- scale investigation will be undertaken.
 - o The urgency of this and who will be responsible for arranging it.
 - o Contacting the Care Inspectorate if a registered service is involved.
 - o Alerting the Service Manager if this has not already been done.
- iii. All decisions taken will be recorded.
- iv. Where a large-Scale investigation is initiated, it is good practice to hold a multi-agency planning meeting to ensure that all actions are carefully considered and all agencies agree and are aware of the actions to be taken by themselves and others.

7. Initial Multi-Agency Planning Meeting

- i. A multi-agency planning meeting should be convened soon as practicable. The urgency of this, and who will take responsibility for arranging and minuting this will be decided during the initial inter-agency discussion. It is a continuation of the initial inquiry process and one of the decisions to be taken will be whether an Investigation is necessary.
- ii. The meeting will be chaired by a senior manager from one of the three key agencies, as agreed in the initial discussion.
- iii. The chair of the meeting will identify the key agencies who require to attend meeting. The people attending should be of a sufficiently senior level to contribute to decision making and resource allocation if necessary.
- iv. The following should routinely be considered for invitation.
 - o Head of Service
 - o Service manager
 - o Lead Officer Adult Protection
 - o Procurement and Contract Manager
 - o Council Communications Manager
 - o Local Police Commander and/or Detective Chief Inspector, Public Protection Unit
 - o Senior NHS manager/Clinical and/or Nurse lead
 - o Care Inspectorate Team Manager
 - o Representative(s) from any other local authorities who are funding service users within the service concerned.
 - o A relevant manager of the service concerned (although this must first be checked with police in terms of potential compromise to any investigation)
- v. These staff make up the Planning Group. Contact should also be made with any local GPs with responsibility for one or more of the adults identified as at risk. In particular this is important if a particular practice has a contractual agreement to provide GP cover, as is the case for most care homes.
- vi. The Planning Group will:

- Share the information available from all key agencies, e.g., from initial inquiries made by social work, relevant information from health involvement with the service, any background information that can be shared by the police and any relevant inspection findings or complaints about the service made to the Care Inspectorate
 - Make a decision as to whether a large-scale investigation should be initiated and/or action pursued through the Care Inspectorate existing regulatory role and/or through criminal investigation.
 - If a large-Scale investigation is agreed there it will be confirmed which agencies require to be involved and who will lead from each of those agencies
 - Decide what further information is required and how that will be gained.
 - Identify key tasks to be undertaken, the persons responsible, and agreed timescales. This will include any immediate protective measure for individuals (where not already addressed).
- vii. If a criminal investigation is indicated, then decisions regarding primary and parallel processes for criminal investigation/disciplinary investigation will be considered. Any criminal investigation will take priority over the adult protection and/or disciplinary investigations and how these may be conducted will need to be considered. It remains the council's duty to co-ordinate the adult protection process. Where an adult protection investigation is required in parallel with a criminal investigation this will focus on ensuring the ongoing safety of the adult(s) rather than the circumstances leading to harm.
 - viii. Consider the need for any individual adult protection investigations/case conferences for adults considered to be at particular risk (it may not be necessary to do this if concerns/protection issues are adequately addressed by this protocol); and what sensitive information should/should not be considered at individual case conferences.
 - ix. Decide whether all residents need to be reviewed, the level and type of review and the professionals who need to be involved.
 - x. Ensure the provision of advocacy for service users
 - xi. If it has been considered appropriate for the manager of the service under investigation not to be involved in the planning group because of any criminal investigation, it will be agreed who will be responsible for keeping the manager of the resource or registered service informed.
 - xii. If the identified risks relate to the actions of a staff member (or staff members) within an organisation, then that organisation will be responsible for invoking its own disciplinary proceedings and ensuring that any immediate risks are removed or minimised. The requirement for a parallel disciplinary investigation and how this will be conducted will be discussed with the service manager.
 - xiii. Make a decision as to whether a moratorium is appropriate and the arrangement for putting this in place.
 - xiv. Make a decision as to the communications strategy appropriate for service users and families, other placing authorities and potentially the wider public.
 - xv. Undertake an impact assessment using the form in Appendix 20 of the Orkney Large-Scale Investigation Guidance. It is recognised that a large-Scale investigation will have a significant impact on any service, and this requires careful advance consideration and management, including such areas as:

- o How the service will be managed during the process
 - o The impact of the activity on service users, families and staff
 - o The impact of any press interest on service users, family and staff
 - o How information will be disseminated to provide reassurance.
- xvi. Where an LSI relates to an adult at risk with a mental disorder or an adult with incapacity, consideration will require to be given to whether the MWC and/or the OPG require to be notified or conduct further inquiries or investigations
- xvii. Where any investigation is mounted, a review meeting will be required, and a date set within a maximum of 3 months.
- xviii. If any service identifies resource implications as a result of the decisions of the Planning group, these should be communicated immediately to the Head of Service/Senior manager within their organisation.

8. Recording

- i. The information shared and the decisions made by the Planning Group should be recorded and the minutes distributed as soon as possible to all those who attended, and also those invited but unable to attend.
- ii. Any individual considered to be at risk should have the AP referral form completed in PARIS. Where the outcome is that the adult is at risk and an investigation is required, a note should be added by the Service Manager at the time of authorisation to state that this will take place as part of a large-Scale investigation.

9. The Investigation

- i. The Planning Group will appoint a lead council officer (as appointed by the council under the ASP Act).
- ii. Discussion will have taken place in the Planning Group as to the conduct of any parallel investigations (i.e., criminal or disciplinary) and so the scope of any adult protection investigation.
- iii. Discussion will also have taken place to agree the roles of social work, health and Care Inspectorate staff in the investigation and/or reviews of individuals receiving the service and the ongoing involvement (or communication with) the manager of the service.
- iv. If it is necessary to undertake individual adult protection investigations, then this will be done under the Orkney adult support and protection procedures.
- v. If there are ongoing concerns that an adult may be at risk of harm, the progress of any Police or disciplinary investigation should not delay the holding of a case conference and the implementation of a protection plan for them.
- vi. During the investigation, ongoing communication should take place between the key agencies involved on a regular basis so that all relevant information is passed on.
- vii. There is a duty under the ASP Act to consider the importance of independent advocacy. Service users and family members should be given information about independent advocacy in all cases and assistance made for them to access this service.

10. Concluding the Investigation

- i. Once all agreed assessments/reviews (and any agreed individual AP investigations) have been carried out and any immediate risks have been addressed, the lead council officer should collate the information gained and discuss this with the lead officers in each of the key agencies to ensure that all appropriate actions have been done at this stage.
- ii. The lead council officer will then prepare a report on the findings of all actions taken and send this to the members of the Planning Group in advance in order that it can be discussed at the Planning Group review meeting.

11. Multi-Agency Review Meeting

- i. Where a large-Scale investigation was agreed at the original Planning Group meeting, a review date will have been scheduled. Where the activities undertaken as part of the investigation have identified a higher degree or risk or a more complex situation than initially expected, it may be necessary to change this date. However, it is important that the key personnel from each agency are present and every effort should be made to maintain the agreed timescales.
- ii. The lead council officer will present the investigation report to the review planning meeting together with its conclusions and any recommendations.
- iii. The representative of the Care Inspectorate will present their findings from any parallel investigation of the service involved in the investigation, where applicable.
- iv. While it may not be possible for the police to divulge the detail of any police investigation, they will share relevant information that may support decision making to protect adults at risk.
- v. If it is agreed that outstanding risks remain, an action plan to address these concerns will be agreed. This action plan will be referred to as the large-Scale protection plan and will detail timescales and persons responsible for individual actions.
- vi. A core group may be identified to monitor the large-Scale action plan if necessary.
- vii. The review meeting will:
 - o Consider the report from the lead council officer and any other agency who has undertaken specific pieces of work.
 - o Ensure that appropriate risk assessment and management plans are in place.
 - o Agree any outstanding actions or additional actions to be undertaken to conclude the investigation.
 - o Decide if the investigation is now concluded, its outcome and any actions if out with the investigation, or whether additional actions and a further review meeting are necessary.

12. Media Strategy

Where media interest is likely, the chair of the Planning Group and the appropriate communications officers from the relevant agencies should agree a joint media plan. Relevant senior managers from the key agencies should be involved and agree this.

The Service Manager Adult Protection should inform the chair of the Adult protection Committee of any large-Scale investigations, as the media may contact them.

13. The Adult Protection Committee

The lead council officer will liaise with the Service Manager Adult Protection so that the chair of the APC and members can be updated as appropriate.

The final report from the investigation will be made available to the APC once the investigation and all related actions have been concluded.

31. APPENDIX 21 - POLICE - ADULT AT RISK REFERRAL DETAILS

ADULT AT RISK REFERRAL DETAILS CHECK POLICE CONCERN FORM

Division :

Office :

Date :

VPD Incident No:

Crime Report No:



Section 1 – Subject Details (All sections must be completed)

NAME:

Age:

D.O.B.

Preferred Language

Occupation:

Home Address:

Postcode:

Tel No:

Ethnicity:

Injuries:

Primary User Group:

SECTION 2

NATURE OF INCIDENT:

Adult at Risk

Type of Abuse reported:

Time/Day/Date of Incident:

Locus of Incident:

SECTION 3 – Details of Principal Carer (if applicable)

NAME:

Age:

D.O.B.

Occupation:

Address:

Postcode:

Tel No:

Agency Referred to:

SECTION 4 – Details of Suspect / Accused (if applicable)

NAME:

Age:

D.O.B.

Occupation:

Address:

Postcode:

Tel No:

Agency Referred to:

