

Adult Support and Protection – Social Work Operational Procedure



Version Control

This document will be reviewed every two years.

Revision Date	Version	Responsible Officer	Summary of Changes
March – September 2022	2	Maxine Ward, ASP Lead Officer	Roles and Responsibilities Section revised and ASP Training Framework approved.
October 2022 – September 2023	3	Gus Harrison, Interim ASP Lead Officer	Detailed revision available on request via HSCPASP@east-ayrshire.gov.uk

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Appendix 1 – Reflective Supervision Tool for Adult Support and Protection

Key Message from the East Ayrshire Adult Protection Committee (EAAPC)

This statement remains relevant today “...It isn’t the law alone that makes the difference in responding to harm, it is how you take this opportunity to build relationships with the adult, their families and with the services you need to assist them that really makes the difference...” (EAAPC Development Session Report: Mind the Gap? – May 2018)

[The East Ayrshire Adult Protection Committee](#) (EAAPC) is a statutory requirement and has a key function of retaining oversight of local adult support and protection procedure and practice and advising the Chief Officer Group (Child, Adult and Public Protection) on the operation of this. The EAAPC and partners have a vision of “Protecting People” which means we believe that all citizens, organisations and services have a responsibility to take action to recognise, support and protect those who may find themselves at risk of, or experiencing all forms of harm.

The EAAPC acknowledges the challenges faced by frontline staff who have responded to protection concerns during the Pandemic. We sincerely thank you all for the work you do in ensuring the citizens of East Ayrshire remain safe and protected.

The EAAPC and its partners which includes Social Services must operate within the Adult Support and Protection (Scotland) Act 2007 (The Act) legislative principles and Codes of Practice. These have been developed within a human rights framework and adherence to these are a protective measure that support equality and access is embedded in its processes.

These procedures therefore hinge on the aspects of equality and fairness and ensuring a proportionate approach that recognises that people with protected characteristics should not be treated any less favourably than any other citizen who is not so affected. This means also ensuring that there is recognition of when some people may be more disadvantaged in society therefore we must ensure we are able to reach those groups and ensure we work in ways that prioritise, support and protect.

1 Introduction

Further to staff consultations that took place in early 2023 to consider challenges in implementing practice improvements, it was identified by a majority proportion of practitioners that whilst the ASP Operational Procedures were necessary and informative, the day to day use of the procedures to support practice was often cumbersome and time consuming leading to a level of apathy towards them. This procedural review has therefore ensured streamlining where possible.

It was also agreed following these staff consultations that a 'Quick Access Guide' would be produced to support the daily and often immediate need or support and guidance in relation to ASP practice. Work is currently being progressed in the development of an ASP App that will be available on electronic devices including phones to support this identified need.

The APP does not replace the requirement for the broader understanding of these Social Work Operational Procedures and all staff MUST ensure they take responsibility for developing their knowledge and practice. Further strongly recommended training which is essential for some roles can be accessed via the [Protection and Learning Training Website](#).

2 Context of Public Protection in East Ayrshire

The complexity of adult support and protection requires that any member of the workforce responding to harm must be aware of the wider safeguarding context and any specific associated risks. [As the Adult Support and Protection \(Scotland\) 2007 Act Code of Practice: July 2022](#) remind us, they offer additional mechanisms by which support and assistance can be considered or provided.

This means that although many individuals who experience harm specific to the areas detailed below may not meet the adult at risk criteria it is imperative that workers are able to have an understanding and awareness of these areas in order to respond effectively and have access to appropriate supports for the individuals concerned.

- [Child Sexual Exploitation](#)
- [Criminal Exploitation](#)
- [Cuckooing and County Lines](#)
- [Female Genital Mutilation](#)
- [Financial Harm/Scams](#)
- [Forced Marriage](#)
- [Hate crime](#)
- [Adult and Child Trafficking](#)
- [Internet Safety](#)
- [National Child Protection Guidance](#)
- [National Multi-Agency Public Protection Arrangements](#)
- [Prevent](#)
- [Suicide Prevention](#)
- [Violence Against Women and Girls](#)

3. Legislative Background

3.1 Purpose of this Procedure

This Procedure is designed to primarily support daily practice to ensure the relevant social care workforce meets both their statutory responsibility and the expected standards of practice in recognising, reporting and responding timeously to situations where they know or believe that an adult is at risk of harm. This procedure is consistent with the overarching [West of Scotland Interagency Adult Support and Protection Practice Guidance](#) which has been endorsed as key multi-agency guidance to be followed by the three Adult Protection Committee's across Ayrshire. It does this by:

- Confirming for staff what local action should be taken when harm, mistreatment or neglect is suspected or has taken place; and
- Clarifying the roles and responsibilities of all those involved.

3.2 How does Part 1 of the Act Safeguard the Adult?

- The principles emphasise the importance of striking a balance between an individual's right to freedom of choice and the risk of harm to that individual. Any intervention must be reasonable and proportionate. It is recognised that at times, there will be a need to carefully weigh and consider the various principles, particularly where the adult at risk does not wish support or they themselves are the source of the risk.
- Statements expressed in advance about an individual's preferred care or treatment must be taken into account in line with the guiding principles.
- The principles must always be taken into account when an intervention under Part 1 of the Act is being considered.
- The adult at risk has a right to refuse to be medically examined or answer questions during an interview.
- Protection Orders cannot be made if the court knows that the affected adult at risk has refused to consent to the granting of such an Order. The only exception to this is where the adult at risk is found to have been unduly pressurised to refuse to consent and there is no other protective action, which the adult would consent to, which could be taken.

- Applications for all Protection Orders (except in emergency situations in relation to Removal Orders) will be heard before a Sheriff. However the Sheriff may decide not to hold a hearing where they are satisfied that this will protect an adult at risk from serious harm or not prejudice any persons affected.
- The adult at risk or someone on their behalf may apply for a Banning Order to ban a person from a specified place (For example the home of the adult at risk).
- An appeals mechanism allows relevant parties to appeal against the granting of, or refusal to grant, a Banning or Temporary Banning Order.

3.3 Seven Elements of the Adult Support and Protection (Scotland) Act 2007

There are seven key elements of the Act which the Council and key statutory partners **must** adhere to. These key elements are:

- Principles governing intervention in an adult's affairs;
- Definitions of an 'adult at risk' and of 'harm';
- Statutory duties on Councils to inquire and investigate;
- Duty of co-operation (reporting and Inquiry and Investigation);
- Offences (Section 49);
- Protection Orders;
- Duty to establish Adult Protection Committees (Section 42)

3.4 Legal Principles (Sections 1 and 2)

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

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

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

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

Practice Note 1: Applying Legal Principles

The adult, primary carers, nearest relative, legal guardian (s) or attorney (s) are not bound by the principles of the Act unlike the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) and [2015 Act](#) whose legal principles do apply to the aforementioned group. Similarly, it should be noted that the statutory roles of Guardian or Attorney have separate legal duties and principles under Adults with Incapacity legislation which require to be adhered to.

To ensure the adult is respected and empowered to participate it is **essential** that they are also provided with information to support their inclusion (in a way that is most likely to be understood by the adult). Where the adult needs an aid to communication (for example, translation services or signing or Talking Mats) then these needs **must** be considered and facilitated by any staff undertaking any intervention.

The principles for effective communication are:

- Principle 1** Recognise that every community or group may include people with communication support needs.

Principle 2 Find out what support is needed

Principle 3 Match the way you communicate to the ways people understand

Principle 4 Respond sensitively to all the ways an individual uses to express themselves

Principle 5 Give people the opportunity to communicate to the best of their abilities

Principle 6 Keep trying

[Guidance for Delivering Speech and Language Therapy Services.](#) To make a referral to local Speech and Language Services please contact: 01563 827140

The importance of early engagement and establishing relationships with adults who may be at risk of harm are a key factor in promoting positive outcomes for individuals. This includes advocacy as a crucial element in achieving social justice. It is critical therefore to ensure everyone is heard and everyone matters that conversations around the role and right to independent advocacy commence as early as possible. **Referrals can be made to East Ayrshire Advocacy via their [website](#) or alternatively telephone 01563 574442**

The approved resource for both written and verbal translation services is:

Global Connections (Scotland) Ltd.
3rd Floor
180 Hope Street
Glasgow
G2 2UE

David Orr
Email: d.orr@globalconnects.com

Interpreting Enquiries:
Email: interpreting@globalconnects.com
Tel: 0141 352 5663

Translation and Transcription Enquiries:
Email: translations@globalconnects.com

3.5 Definition of an Adult at Risk (Section 3)

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

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

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

Practice Note 2: Applying the Legal Criteria

A key element of the legal criteria relates to whether the adult is **unable** to safeguard their wellbeing, property, rights or other interests. Practitioners should be guided by the Oxford Dictionary definition of unable which is "...lacking the skill, means or opportunity to do something..." It will be important to distinguish between whether the adult lacks the skills necessary therefore is unable and an adult who has the skill, means or opportunity to keep themselves safe, but chooses not to. The latter would mean that they would not be considered as meeting the criteria qualifying them as an adult at risk in terms of the Act.

The Code of Practice explores in more detail the impact of [trauma](#) on an individual's ability to safeguard and therefore should be given due consideration.

3.6 Capacity

An accurate assessment of capacity, whatever the outcome, can be crucial and may be complex. An adult may have capacity in one area of daily life and lack the capacity to make safe decisions in another. Here we are looking at whether someone has the cognitive ability to understand the decisions they are making (**not taking action is also classed as a 'decision'**) and risks they may be taking in relation to keeping themselves safe from 'harm' as defined within the Act.

Social Workers are expected to consider and provide a professional view within any assessment or inquiry that they are undertaking of whether it is **reasonable** to suspect an adult may be affected by impaired capacity. The following factors should 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?

A lack of capacity to give informed consent to being interviewed is not an automatic bar on the adult participating in the interview process. The principle of the adult participating 'as fully as possible' should be adhered to. In addition, if the adult is thought to have been influenced to refuse consent, consideration should be given to whether there has been 'undue pressure' applied and therefore a need to consider an alternative place where you may visit the adult and put additional measures in place to support the adults decision making abilities, or if no place can be identified an application for an Assessment Order to speak to the adult in private.

Where capacity is uncertain and direct intervention under Adult Support and Protection is necessary to protect an adult, a clinical assessment of the adult's ability to safeguard can be requested from the adults GP or through a psychiatrist who may have involvement with the adult. **However the assessment of capacity should not delay any intervention deemed immediately necessary to safeguard the individual and a professional analysis of the adult's awareness or understanding of the risk further to assessment should be provided**

If the threat of 'serious harm' (a term not defined in the Act) is not a factor, undue pressure is not apparent and the adult has capacity to understand their circumstances as well as the level of risk to which they may be subject, the adult's refusal to co-operate in an adult protection inquiry should not automatically signal the end of any inquiry, assessment or intervention. **Whilst the adult has a right not to**

engage in any such process, the Council and its partners are still obliged to share information to determine if the person is an adult at risk of harm and work together to offer any advice, assistance and support to help manage any identified significant risks.

Where an individual level of cognitive capacity is unclear however the assessment of the Council Officer and G.P. is they are unable to safeguard themselves, it is possible to override a person's refusal if it is assessed that the risk of serious harm or actual imminent harm is such that protective measures are urgently required. The adult's ability to safeguard themselves and their capacity to provide informed consent or refusal would then be decided in Court via application for a Protection Order.

Consideration should always be given to whether intervention under the terms of the [Adults with Incapacity \(Scotland\) Act 2000](#) or the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) / [Mental Health \(Scotland\) Act 2015](#) would be the least restrictive option and of more benefit to the adult.

3.7 Consent

The General Data Protection Regulations requires the issue of consent to be easily distinguished from any other matters. The worker must keep the issue of consent under review as it is essential to record if consent is withdrawn at any stage.

All statutory partners have a duty to report any suspicion of harm, for example, refer with or without an adult's consent. **If consent has not been given initial inquiries/investigation must still take place ensuring the level of intervention is proportionate to the risk of harm identified.** In all cases the adult's response to consent **must** be clearly recorded on Liquid Logic and reasons for overriding same made explicitly clear.

3.8 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. Such a refusal to co-operate does not absolve the Council and its partners of responsibilities to make inquiries about the adult's circumstances and the degree of risk. Any inquiries should consider the adult's capacity to understand the risks they are exposed to and the possible consequences of their refusal to co-operate; 'undue pressure' might have contributed to their decision to refuse to co-operate or cumulative impact of trauma experienced. Further information on Trauma Informed Practice and how this might relate to Adult Support and Protection context and processes is available in the [Trauma Informed Approach to Adult Support and Protection Guidance 2023](#).

If the Council Officer believes the adult is at risk of serious harm and their ability to safeguard is compromised they must consider the option of a Protection Order to secure the adults safety and/or conduct an interview. The adult can still refuse to answer questions or remain in a place of safety however a Protection Order may create the conditions for them to make the decisions away from the situation they are experiencing.

3.9 Problematic Alcohol and Drug Use

A temporary lack of ability to safeguard, which is due to problematic alcohol or drug use, would not by itself result in an individual being considered an adult at risk. Adults have the right to make choices and decisions about their lives, even if that means they choose to remain in situations or indulge in behaviour which others consider unwise. Without any additional vulnerability, such as an illness or disability, adult protection intervention would not normally be appropriate. Young people aged 16 – 18 years can be particularly easily influenced and legislation places limits on children not in place for adults such as access to alcohol.

The ongoing problematic use of 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 use itself.

In each case multi-agency inquiries should be made to gather as much information as possible about an adult's condition. In addition, because an adult's underlying condition may deteriorate with ongoing alcohol or drug use, inquiries should be made each time an adult protection referral is made and no assumption should be made about the adult's condition on the information gathered during a previous inquiry.

[Angus APC Significant Case Review P19 April 2021](#)

Any Adult Protection Episode where the risk of non-fatal drug overdose has been identified should be proactively considered for referral to the Rapid Access to Drug and Alcohol Recovery [RADAR](#) service.

3.10 Adult Protection Interfaces

Adult Protection has a number of essential interfaces with other procedures and agencies and knowledge of these is essential to ensure the adult at risk of harm's needs are considered proportionately and effectively. Practitioners should ensure they familiarise themselves with the purpose and principles of each.

3.11 Adult Protection – Child Protection Interface

In East Ayrshire the transition pathway ensures ongoing support and full joint consideration of any current or future protection risk for any young person moving between child and adult services. This includes consideration of whether statutory measures and supports under children's legislation and/or mental health legislation may be relevant and proportionate in the circumstances.

A person must be aged 16 years and over to meet the criteria for intervention under the adult support and protection legislation. It is essential that the welfare of the child remains paramount and that both child and adult social work services jointly agree the way forward and any such matter is discussed with Scottish Children's Reporters Administration (SCRA) to seek advice as part of any decision making.

There will be cases where the young person remains at risk but does not meet the three point test. Situations like this can be challenging for workers involved as no intervention can be taken under Adult Support and Protection legislation. In such cases, if no other legislation is appropriate, the young person should be encouraged to engage with services or alternate supports with a view to alleviating the risk through increasing their ability to keep themselves safe. There must also be full consideration of whether the risks meet the criteria for following the Care and Risk Management Procedures.

The undernoted key documents provide the most relevant information regarding the expectations and standards of joint working arrangements between child and adult services:

[Transition Pathway](#) and its link to [national Guidance for Child Protection in Scotland](#) and the [Adult Support and Protection Code of Practice](#);
[Child Protection – Adult Support and Protection Interface Guidance](#)
[Vulnerable Pregnancy Procedure](#)
[West of Scotland Inter-Agency Child Protection Procedures](#)

3.12 Adult Protection - MAPPA (Multi Agency Public Protection Arrangements) Interface

The MAPPA process is guided by the [Scottish Government Multi-Agency Public Protection Arrangements \(MAPPA\) National Guidance 2022](#). In relation to adult support and protection there may be circumstances where a relationship of concern develops between a person subject to MAPPA and an adult who is considered to be vulnerable and subsequently unable to protect themselves from harm. Learning from the [Forth Valley Significant Case Review](#) highlighted a situation where an individual who was subject to MAPPA used the opportunity during relationships to coerce the adult at risk as well as an opportunity to introduce to others who were themselves vulnerable or potential adults at risk. It is critical that robust information sharing to

inform multi-disciplinary risk assessments and risk management plans are in place therefore communication between Council Officers and the MAPPA Service to determine if there is any requirement for joint processes or information sharing should be directed to: MAPPASW@north-ayrshire.gov.uk . This mailbox is the single point of contact.

3.13 Adult Protection – Multi-Agency Risk Assessment Conference (MARAC) interface

Full information including operating procedures, practitioner handbooks and the DASH RIC Form in respect of MARAC can be found through [Ayrshire Multi-Agency Risk Assessment Conference](#). MARAC is a monthly Case Conference which safeguards adult victims of domestic abuse at risk of significant harm or death.

In respect of Adult Support and Protection, if during the course of an Adult Support and Protection Inquiry/Investigation where current domestic violence is a factor and a score of 14 or over is assessed using the Dash RIC Form, a referral to MARAC **must** be considered **in tandem** with the Inquiry/Investigation to support any assessment of risk, intervention and protection planning.

3.14 Adult Protection - CPA (Care Programme Approach) Interface

There may be circumstances where an adult at risk of harm is subject to the Care Programme Approach (CPA) or would benefit from being referred for CPA as a protective factor if the risk of harm is as a direct impact of their mental health condition.

CPA Criteria

The adult must be over the age of 16 years (or younger if managed through Child and Adolescent Mental Health Service (CAMHS)) and have a diagnosis of mental illness including Dementia, Learning Disability and Personality Disorder plus at least one of the following:

- History of repeated mental health relapse due to breakdown in medical or social care in the community including difficulties in concordance of medication
- Presence of severe social disability arising as a direct consequence of mental illness including parental responsibilities
- Presence of major housing difficulties arising as a direct consequence of mental illness

- History of significant suicidal risk, self-harm or self-neglect
- History of vulnerability including financial difficulties
- Where mental illness is significantly impaired by substance misuse
- History of significant violence/dangerousness towards others
- Subject to a Statutory Order enacted by:
 - [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)
 - [Criminal Procedures \(Scotland\) Act 1995](#)
 - [Adult Support and Protection \(Scotland\) Act 2007](#)
 - Or any other relevant legislation

An Inquiring/Investigating Officer assessing the circumstances of an adult with a mental disorder, who may meet or have met the criteria for CPA, should check relevant systems to identify whether the adult is or was subject to CPA to inform their assessment and decisions in respect of further intervention.

Where a situation arises that require ASP and CPA processes to run concurrently the Council Officer and CPA Care Co-ordinator must engage with each other to ensure effective joint working and communication to protect the adult.

The adult support and protection process would be a crucial safeguard in circumstances where an adult declines CPA however meets the criteria of an adult at risk and the level of risk to the adult or others is serious. It is expected that in these circumstances the risks to the adult and/or others should continue to be monitored and managed within the Adult Support and Protection process.

For further information including leaflets for people being referred that explain CPA contact the CPA Co-ordinator on 01294 323348 or email:

Lesley.bramwell@aapct.scot.nhs.uk

3.15 Adult Protection – Office of the Public Guardian (OPG) Interface

In situations where an Inquiring/Investigating Officer requires general advice in relation to an adult who has a Continuing Power of Attorney or a Financial Guardianship and may be considered an adult at risk of harm or confirmation of registration and/or provision of a copy of the Power of Attorney; the Inquiring/Investigating Officer must follow the process detailed within the [ASP Liquid Logic Procedures](#).

The nominated local authority OPG contact for Adult Support and Protection Inquiries with the Protection and Learning Team will then send this information request directly to the OPG. The OPG will complete the request and return to the

local authority OPG Contact who will input the information received into the adult's Liquid Logic record which can be viewed by Inquiring/Investigating Officer.

3.16 Adult Protection – Mental Welfare Commission (MWC) Interface

The MWC may require to be notified in some significant circumstances where the ASP investigation substantiates a significant concern of deficiency in care or treatment where the individual has suffered a serious injury or adverse effect or where a Protection Order has been granted. Full guidance on circumstances to notify can be found on [Notifying the Commission Guidance for staff in NHS/Local Authority/Independent Sector Services](#). The Inquiring/Investigating Officer must follow the process detailed within the [ASP Liquid Logic Procedures](#).

3.17 Adult Protection – Duty of Candour Interface

The 2016 Act places a legal obligation on providers of health and social care to follow a [Duty of Candour procedure](#) as soon as reasonably practicable after becoming aware that a person who has received a health service, a care service or a social work service has been caused harm due to an unexpected or unintended incident in relation to the provision of those services. Neither the Act nor the Regulations define what amounts to an unexpected or unintended incident as the focus is more on the consequence of this.

The partnership [Duty of Candour Procedure](#) provides a full explanation of how to activate this via the [East Ayrshire Health & Social Care Partnership Significant Occurrence process](#) in Section 7b. If you believe that Duty of Candour criteria is met, you must discuss this with your Team Manager.

East Ayrshire Organisational Development have an e-learning module on Duty of Candour which can be accessed via Learn Pro in the Profession and Technical Section and is entitled: NES: Duty of Candour.

3.18 Adult Protection – Significant Occurrence interface

The purpose of the [Social Work Significant Occurrence Reporting Procedure](#), is to ensure the immediate and salient facts of a significant occurrence or incident are brought to the attention of relevant managers along with an assurance that appropriate action has been taken in response to the occurrence or incident.

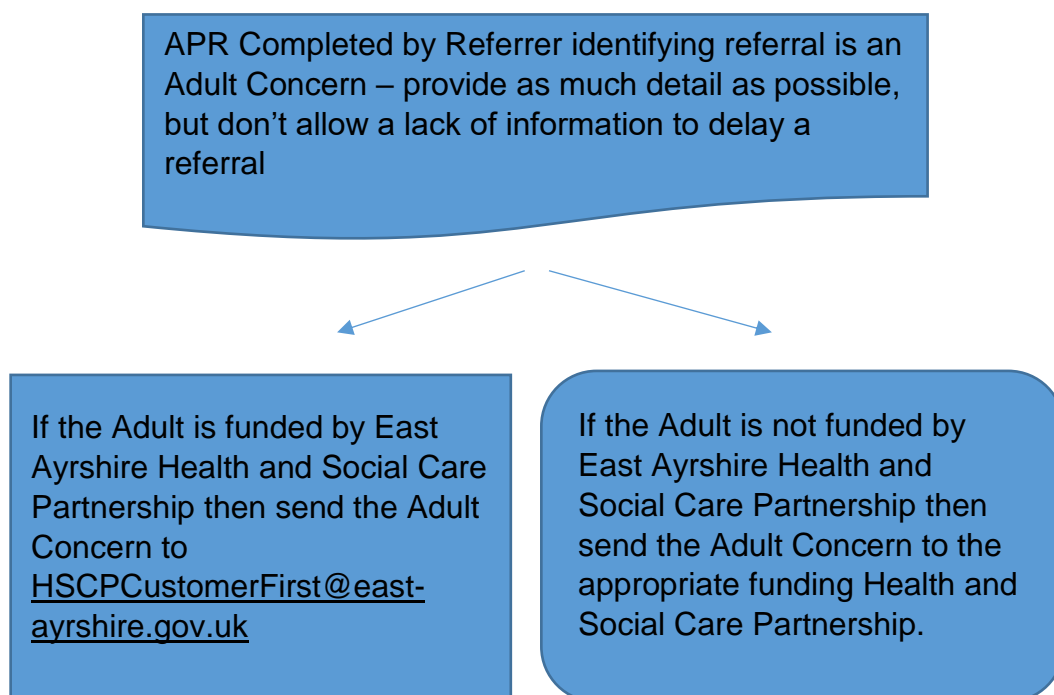
For the purposes of Adult Support and Protection activity it is expected that the following **must** be reported:

- where an adult has an open ASP Episode and has subsequently died
- Any Adult who was subject to an ASP Episode within the last 6 months
- Where an adult at risk episode indicates the duty of candour is met
- Where an adult subject to a complaints process and is identified as an adult at risk during the complaint, and the complaint outcome triggers the duty of candour process
- Where the circumstances may indicate the criteria for consideration of reporting under the [Initial / Significant Case / Learning Review process](#).

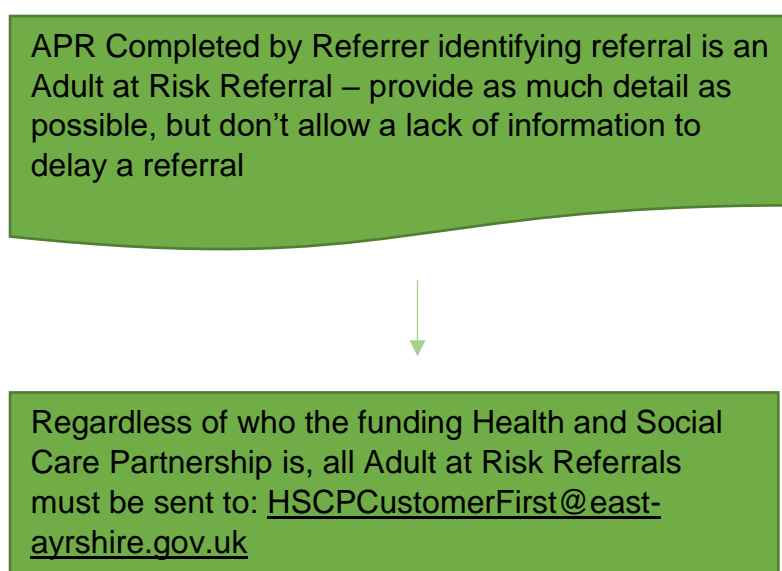
3.19 Adult Protection – Care Home Interface

There are arrangements in place to ensure that there is communication and collaborative working where an adult resides in a Care Home, for example through the current social work assessment and review process. This section relates specifically to situations where an Adult Concern or an Adult at Risk referral is required. In these cases the following referral process which has been agreed Ayrshire wide by the Adult Protection Lead Officers and by the EAHSCP and therefore to provide consistency should be followed:

Adult Concern Referral Process Flowchart for Care Homes



Adult at Risk Referral Process Flowchart for Care Homes



It is the Inquiring Officer's role to check with Care Homes when undertaking an Initial Inquiry if they have submitted any Adult Concerns to other placing authorities within the previous three months. This allows a fuller analysis of risk as well as consideration of whether there may be indication that a large scale investigation process requires to be considered.

Inquiring Officers should also ensure that the Care Home has undertaken action in relation to their responsibilities which may include:

- Contacting the relevant emergency service if the adult is in need of these services to secure the safety and wellbeing of any adult impacted by the situation, for example they may have been physically or sexually harmed;
- Contacting Police if the situation may warrant this;
- Notifying the Care Inspectorate in line with Significant Incident Reporting requirements;
- Notifying relatives and/or legal proxies, unless advised against this by Police where it may be a police matter;
- Communicating with the relevant Contract and Commissioning Lead Officer;
- Initiating relevant disciplinary procedures where a staff member is an alleged harmer;

3.20 Adult Protection – Mental Health (Care and Treatment) and Adults with Incapacity interface

Legal literacy which means understanding how key safeguarding legislation can support, care and protect adults at risk of harm is an area practitioners require to be confident in.

[Adult Support and Protection \(Scotland\) Act 2007](#)

This Act has been designed to respond to risk from others. However, the Act lacks powers to provide care or treatment or provide protection of welfare and finances on a long term basis. Therefore, in order to give full and comprehensive consideration of the support a person may require in the longer term, the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) and/or the [Adults with Incapacity \(Scotland\) Act 2000](#) are essential considerations within the overall plan where these are applicable.

[Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) / [Mental Health \(Scotland\) Act 2015](#)

This Act has provisions that cover health, safety and welfare risk which support and protect, provide treatment and care, give greater rights to services and provides a range of powers in response to risk to adults and the safety of other persons. It also has a range of criminal offences which may be used where the adult with mental disorder are open to sexual exploitation, abuse, ill treatment and neglect. There are no civil powers against harmers, for example, to ban like [Adult Support and Protection \(Scotland\) Act 2007](#), nor powers to manage finances or to protect property the same as the [Adults with Incapacity \(Scotland\) Act 2000](#).

[Adults with Incapacity \(Scotland\) Act 2000](#)

This Act protects the welfare, finances and property of an adult “incapable” because of a mental disorder. It provides authority to treat under s49 of the Act, but cannot compel medical treatment and does not have scope to treat the adult for a psychiatric disorder which would be considered under the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#). In practice this Act is used predominantly to support the decision making and protect adults with Dementia, adults with Learning Disabilities, Alcohol Related Brain Damage or Acquired Brain Injury or severe and enduring mental illness. It has no emergency powers, for example, no warrant for entry, however if risks relate to the persons incapacity, Interim Guardianship Orders can be used as a mitigation of immediate risks.

3.21 Supporting Guidance

A range of guidance and resources have been produced and it is expected that all staff responsible for professional decision making in relation to any intervention under the Act, for example Council Officers, Team Managers, Service Managers, Senior Managers and Case Conference Chairs will be familiar and operate within the following statutory supplementary guidance:

- [Council Officers Procedural Handbook](#)
- [Chairs Procedural Handbook](#)
- [Pan Ayrshire Large Scale Investigation Guidance](#)
- [Finance and Property Harm – A Guide for Staff](#)
- [Forced Marriage Supporting people at risk – Ayrshire Multi-Agency Practitioner’s Guidance](#)
- [Adult and Child Trafficking Information Booklet](#)
- [Legislative Information Booklet](#)

- [East Ayrshire Operational Guidance: Statutory Warrants and Protection Orders under Adult Support and Protection \(Scotland\) Act 2007 and Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)
- [National Guidance for Adult Protection Committees Undertaking Learning Reviews May 2022](#)
- [East Ayrshire Adult Protection Committees Ayrshire Learning Review Guidance May 2023](#)

4. Roles and Responsibilities

The roles and responsibilities of everyone professionally involved in Adult Support and Protection interventions detailed below align with the ASP Codes of Practice and agreed social work operational standards and the essential [Adult Support and Protection Training Framework](#) which is mandatory and staff and managers should familiarise themselves with what is expected within their role:

- Grade 8 Support Assistant
- Grade 10 Social Worker with a minimum of 12 months experience and newly qualified social workers during their first year induction
- Secondary Worker
- Council Officer
- Team Managers with responsibility for oversight, sign off or scrutiny/monitoring of ASP practice
- Team Managers who are not qualified social workers, but line manage support assistants undertaking initial inquiries
- Service and Senior Managers who are qualified social workers and have responsibility for the oversight, sign off or scrutiny/monitoring of adult support and protection, including chairing case conferences and may include large scale investigations
- Service and Senior Managers who are not qualified social workers but have responsibility for front line services undertaking adult support and protection work

4.1 Inquiring Officers

In East Ayrshire initial inquiries under adult support and protection can be undertaken by Grade 8 Support Assistants and Grade 10 Social Workers who have a minimum of 12 months experience in Social Work in order to be deemed an Inquiring Officer.

Some workers may require more preparation and opportunities for shadowing and coaching therefore although the **minimum** is 12 months experience, learning objectives identified to support workers to undertake initial inquiries must be recorded within their monthly supervision sessions and ongoing Face Time process.

4.2 Secondary Worker

In East Ayrshire a Secondary Worker to undertake an investigation can be sourced from another local authority area in situations requiring cross boundary working. Some examples of Secondary Workers are provided below:

- Mental Health concerns – Community Psychiatric Nurse (CPN), Dementia Nurse Specialist
- Pressure Sores – Tissue Viability Nurse
- Fluid and Nutrition concerns – Dietician
- Physical Harm or impact of self-neglect or omission of care – Medical Profession, for example, District Nurse, Health and Homelessness Nurse, CPN, Care Home Liaison Nurse, Pharmacist, Occupational Therapist.

It is the responsibility of the Team Manager to agree the appropriateness of the second worker with particular regard to their professional relationship with the Adult. Where the nature of harm has a clinical aspect, joint working with a relevant health professional or Advanced Nurse Practitioner is strongly recommended. In the event an identified secondary worker **has not undertaken the aforementioned training**, however are the right person to attend, the Council Officer will ensure they are fully briefed in the expectations of the role as part of planning the investigative interview. In the event the worker is from another local authority area the employing authority will retain responsibility to ensure the worker has the adequate skills and knowledge when agreeing joint working arrangements.

4.3 Council Officer

In East Ayrshire formal investigations under adult support and protection **must only** be undertaken by approved Council Officers who have undertaken the required essential programme of training and subsequent refresher training. For the purpose of this legislation Council Officers are defined as:

- Registered Social Workers within Community Health and Care, Justice Services or Ayrshire Social Work Out of Hours Services, with a **minimum** of 12 months experience in the risk assessment and management of adults at risk

Social Workers are accountable for their own professional practice and development. Line managers **must** also ensure that social workers receive the support to develop

their skills and knowledge of adult support and protection work as they prepare to undertake this new statutory role. The West of Scotland [Learning and Development Framework](#) for Council Officers can assist the worker and their manager to identify learning needs.

Council Officers **must** also hold:

- An East Ayrshire Council approved Identification Badge (ID) which has been verified by their Team Manager and updated to reflect their Council Officer status.

It is a legal requirement and expectation of the Health and Social Care Partnership that designated Council Officers practice in accordance with the legal principles set out in the Act and absolutely uphold the rights of the adult who is believed to be at risk of harm and/or any other individual affected for example unpaid carers or alleged harmer. Prior to undertaking their role they must familiarise themselves with the [Council Officer procedural handbook](#) which sets out the expected standards of practice within East Ayrshire.

Practice Note 3: Suspension or Removal of Council Officer Status

The Team Manager has a critical role in both ensuring the continued professional development of Council Officers and ensuring the necessary support and challenge which includes the potential for addressing performance and practice. [The Supporting Performance at Work Policy](#) must be considered to support this action. A Team Manager should request withdrawal of the authority of a Council Officer on a temporary or permanent basis if practice falls below the expected standards **or** if they have had a period of long term absence/leave for 12 months or more and require a phased return to their protection role as part of their induction on return to duties. In these cases, they should ensure the Council Officer is informed of this and the action recorded, as part of professional supervision arrangements, and their ID has Council Officer status removed until they evidence they can meet required standards. The Team Manager should refer to the Service Manager for authorisation. Once authorised, they should also notify the Protection and Learning Team via email HSCPASP@east-ayrshire.gov.uk who maintains the approved Council Officer list and reports the current service status to the Chief Social Work Officer in relation to professional oversight, governance and accountability for all social work practice and service delivery (including commissioned services).

4.4 Supervision of a Council Officer

The standards of professional supervision must be in line with the Social Work/Social Care Services [Social Work Practitioners' Supervision and Support Professional](#)

[Practice Framework 2023](#) A reflective supervision tool for adult support and protection/risk cases (Appendix 2) has been developed and can be used to support worker reflection.

Team Managers who have responsibility for **professional supervision** of Council Officers **must** have the following training:

- Adult Support and Protection Level 3 Council Officer Training
- Adult Support and Protection Level 3 Training for Managers **AND**
- Attend ASP Level 3 for Managers Refresher every 3 years.

4.5 ASP Training Framework

It is recognised that there may be occasions where relevant managers may not have met the full essential requirements as detailed in the [ASP Training Framework](#) and this may have a detrimental impact on continuity of service provision to vulnerable people. In acknowledgement of this wherefore example training is planned but not yet completed interim arrangements must be agreed with your Service Manager and documented through Supervision.

5 Identifying Risks and Concerns

5.1 Definition of Harm (Section 53)

Harm includes all harmful conduct and in particular:

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

The COP reinforces that harm can be accidental or intentional or a result of “infirmity”, which unlike a mental disorder does not rely on a clinical diagnosis to meet the 3 point legal criteria. While not specified in the Act, harm would normally be categorised to include physical, sexual, financial/material, emotional/psychological, neglect and acts of omission by others charged with the adult’s care, self-neglect, self-harm and/or attempted suicide if the adult would meet the criteria of an adult at risk.

Just because a type of harm is not specified in the Act it does not mean it is excluded by the legislation.

5.2 Serious Harm

There is no definition of ‘serious harm’ provided in the [Adult Support and Protection \(Scotland\) Act 2007](#). **Serious Harm is the threshold that justifies compulsory intervention in an adult’s life by the state.** This can be a one off incident or event but it could also be a number of single events or a build-up of concerns over a period of time that may be related to trauma.

When assessing harm, areas that require to be taken into consideration are:

- Impact of harm on the adult’s physical or psychological health
- Injuries which are severe and/or life threatening
- The adult’s perception and insight into harm
- Level of risk and impact or trajectory of any illness
- The need for urgent action

- The frequency, consistency and severity of harm
- The intent of the perpetrator and likelihood of change
- History and patterns of harm
- The probable consequences of non-intervention

[The Health \(Tobacco, Nicotine, etc. and Care\) \(Scotland\) Act 2016](#) considers offences of acts of omission or wilful neglect or harm committed by care workers or adult health or social care providers whilst providing or arranging health and social care. Where an Inquiring or Investigating Officer considers this may be relevant they must ensure that they discuss their findings with their Team Manager for escalation to, and decision making by the relevant Service Manager and any indication of wilful neglect should be discussed with Police Scotland to determine if there is any criminality. [The Wilful neglect, ill-treatment and corporate homicide Guidance](#)

Presently there are also offences of wilful neglect and ill-treatment set out in section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and Section 83 of the Adults with Incapacity (Scotland) Act 2000. These offences cover the neglect or ill-treatment of mentally disordered people and adults with incapacity and any investigations should also be undertaken in conjunction with Police Scotland.

5.3 Undue Pressure

Undue pressure is an essential consideration in adult protection inquiries and investigations and can affect someone's ability to safeguard themselves, consent to, or engage with, interventions. The Codes of Practice tells us that is good practice to check at various stages with the person how included they feel and ensure that the person has the opportunity to highlight if they feel excluded at any point. Where serious harm is present and undue pressure is evidenced, the Local Authority can apply for a Protection Order, even if the adult does not consent. Despite the presence of a legal definition, practitioners can find evidencing this a challenge due to the complexity of situations.

An example of undue pressure is where the person is afraid of or being threatened by another person and is too scared to speak or voice their concerns.

Another example would be where it appears that harm is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust. For example, where the adult is reliant upon the person for certain (or all) aspects of daily living and may fear that support will be withdrawn. If the adult didn't trust them then the adult would likely consent to the order or proposed action.

The person who inspires trust in the adult may influence the adult to refuse their consent in order to protect those harming the adult.

5.4 Risk Assessment and Safety Planning

There are multiple types of harm that can be considered in relation to adult support and protection. There are a wide range of these available on the East Ayrshire ASP App. There is also an overview of the [East Ayrshire ASP Risk Assessment Process and Safety Planning](#) that provides information in relation to assessment of risk and relevant tools.

The [Working Together to Improve Adult Support and Protection – Risk Assessment and Protection Plan \(2007\)](#) provides guidance on the risk assessment and development of Protection Plans to ensure these are rigorous and comprehensive and is a recommended tool to support Council Officers undertaking Investigations.

6 Chronology

Agencies should use their professional judgement to determine when a chronology is required as part of the risk assessment process. As a minimum, Inter-agency chronologies must be undertaken for individuals:

- With complex needs; or
- Who are at risk of harm or abuse, including self-harm, particularly where multiple referrals have been received; or
- Where others are at risk of serious harm or abuse from the individual

Where the circumstances suggest progression to an investigation a chronology is an essential requirement.

[East Ayrshire Chronology Practice Guidance for Social Work Practitioners](#) is available which also references The Care Inspectorate Chronology Guidance. In addition [Practice Guidance on Chronologies in Adult Support and Protection Moving from Current to best Iriss June 2023](#) is available.

7. Step-by-Step Adult at Risk Guide

The local authority Adult Social Work and Social Care Services will be the lead agency receiving the referral and determining the actions to be taken.

Step 1 Receipt of an Adult at Risk / Adult Concern Referral

All referrals from agencies should be made within 24 hours of becoming aware of the harmful situation. Where an agency makes a referral via telephone, then this requires to be followed up with a completed APR within 24 hours. All electronic referrals are received via:

- Health and Social Care Partnership Customer First Admin
HSCPCustomerFirst@east-ayrshire.gov.uk
- Health and Social Care Partnership Crosshouse Hospital Admin
HSCPCrosshouseHospital@east-ayrshire.gov.uk

7.1 Recording of Adult at Risk /Adult Concern Referral

Upon receipt of an Adult at Risk / Adult Concern Referral from any source this should be recorded in Liquid Logic as a Contact, ensuring the details from the Referral are inputted into the Contact and the referral form is attached to the adults Liquid Logic record. Once all information has been transferred then Admin will re-assign the contact to either the allocated workers team duty tray, the hospital team duty tray or to ACIRT identifying this as an ASP Contact.

Practice Note 4: Referral Allocation Process

All adult at risk / adult concern referrals that have an allocated worker should be directed to the adult's care manager unless the adult is in the hospital, in which case they should be directed to the Hospital Team for making inquiries and processing. This process is strengthened to mitigate against the absence of the allocated worker by Customer First also sending the referral to the relevant duty team.

If the adult at risk does not have an allocated worker and is not in hospital then the adult at risk referral should be directed to the Adult Concern Initial Response Team for processing.

Regardless of the adult being admitted to hospital and considered to be in a place of safety, the referral will continue to have inquiries made in order to be satisfied that

the harmful situation will not continue to affect the adult or any other party on discharge from hospital.

7.2 Acknowledgement of Adult at Risk / Adult Concern Referrals

Email Referrals

All adult at risk / adult concern referrals received via email must have an email sent acknowledging the referral and advising them of whom it has been passed to for processing. This excludes adult at risk referrals received from Police Scotland as it has been agreed that they no longer require an acknowledgement from Customer First Admin.

Telephone Referrals and Face to Face Referrals

Customer First Admin must ask the referrer whether they wish to receive a letter acknowledging the Adult at Risk Referral or whether a verbal acknowledgement would be sufficient. If a letter acknowledgement is required, then this will be generated from Liquid Logic and recorded on Liquid Logic as being acknowledged. If a verbal acknowledgement is sufficient, then this will be recorded on Liquid Logic as the acknowledgement medium.

Letter Referrals

Referrals received via a letter would be generated as a contact on Liquid Logic by Front Door admin and the **Team Manager is responsible for sending an acknowledgement letter.**

Step 2 Initial Inquiries (Section 4)

By whatever means we come to know or believe that a person is an adult at risk, the statutory duty to make inquiries applies. The duty to inquire arises whether or not the adult is aware that concerns have been raised and is not contingent on the adult consenting to a referral.

Practice Note 5a: Locus of Harm and Cross Local Authority Working

East Ayrshire have a statutory responsibility to respond to all Adult at Risk Referrals where the harm has occurred within East Ayrshire even if the adult (s) care is coordinated and or funded by another Local Authority. In Ayrshire it has been agreed that Adult Concern referrals are progressed by the placing Authority.

Therefore if an Adult at Risk referral is received that involves another local authority then the responsible Team Manager should consult with their equivalent in that authority to ensure there is clarity around who will be leading on the Inquiry/Investigation. It is expected the lead for any investigation will arrange and Chair the initial Case Conference. Any areas of disagreement should be escalated to the relevant Service Managers, or if required, beyond this level. All decisions require to be recorded on Liquid Logic. For Large Scale Inquiries refer to Practice Note 7.

Practice Note 5b :Hospital ASP Joint Working Protocol

In situations where the adult is an inpatient in an East Ayrshire hospital but the “harm” occurred in North/South Ayrshire then the Inquiry/Investigation should be undertaken by that local authority. However, where East Ayrshire Health and Social Care Partnership is the host authority due to the location of the hospital, discussion with colleagues in North/South Partnerships takes place to determine if support from the host authority (East Ayrshire Health and Social Care Partnership) in the Inquiry/Investigation is required, for example, by offering assistance from a secondary worker. This is a reciprocal arrangement with Hospital Team Managers in North and South Ayrshire Health and Social Care Partnership’s.

Practice Note 5c: Cross Boundary and Protection Orders

If a Protection Order is required, the Investigating Council Officer would be expected to submit the application to Court where the harm occurred. The Chair of the Case Conference that decides to progress with an application for a Protection Order

should consider the challenges in relation to management and oversight of the Order from a cross boundary perspective when liaising with the authority where the adult resides. For example, ensuring officers from that authority commit to attending core groups and review case conferences to provide relevant updates regarding efficiency of the plans and Orders.

7.3 Screening of Adult At Risk Referral

The worker undertaking initial inquiries **must** check whether the adult is aware of the referral and their view on this. It should be noted that best practice would be for the referrer to ascertain the adults consent unless it is unsafe to do so however the duty to inquire arises whether or not the adult has consented.

Adult Protection is not a linear process, and any action **must** be proportionate to the level of risk of harm dependent on the circumstances however, where there are serious or immediate concerns an investigation in terms of a visit under Section 7 of the [Adult Support and Protection \(Scotland\) Act 2007](#) to the adult at risk should not be delayed and **must** be carried out within 1 working day of receipt of referral by a qualified Council Officer and their nominated Secondary Worker.

If however information suggests any immediate action to protect the adult is required, for example, the adult at risk needs to be removed to a place of safety and/or requires medical assessment or attention this **must** be discussed with the relevant Team Manager and immediate action agreed and taken by a Council Officer in these circumstances.

If there have been 3 Adult Protection Referrals for an individual relating to separate incidents received within a 3 month period then an Adult Protection planning meeting must be considered and/or held to bring multi-agency partners together to discuss and co-ordinate any actions required.

If there have been 3 Adult at Risk Referrals or 3 Adult Concerns regarding an individual that are escalated to Adult at Risk and relate to separate incidents within a 3 month period from the same Care Home or Care Provider then the Team Manager and Service Manager must complete a significant Occurrence form for consideration by Senior Manager for escalation to a multi-agency Large Scale Inquiry Planning Meeting.

The Team Manager **must** ensure that where there is any active adult support and protection activity that there **is** no internal transfer of the case unless agreed by both relevant Team Managers and recorded as part of the formal decision making

process in respect of the Adult at Risk. For example during ASP Initial Case Conferences, Core Groups, ASP Review Case Conferences.

The exception to this is transfer between ACIRT and Locality Social Work Teams where the Case Conference is the agreed point of transfer.

7.4 Statutory Duty to Inquire

Definition of Inquiry: Inquiries are any action taken by social services for the purpose of determining if it is known or believed that the adult meets the 3 point test. An Inquiry for the purposes of these procedures would include:

- Gathering information from relevant social work systems, the referrer, or other agencies (telephone calls, face to face contact or AP planning meeting);
- An initial inquiry visit under Section 4 of the [Adult Support and Protection \(Scotland\) Act 2007](#) is to check on the immediate welfare of the adult if deemed appropriate to information received.
- An initial inquiry visit under Section 4 of the [Adult Support and Protection \(Scotland\) Act 2007](#) where initial information gathering as outlined above is not sufficient to establish whether the adult meets the 3 point test as defined in Section 5.5 of these procedures. However, an initial inquiry visit should **NOT** be confused with visits that would be undertaken as part of the Investigation process (s7 and 8) as this requires an established view that the person meets the 3 point test – the purpose of the visit therefore needs to be clearly defined with the Team Manager in advance. For example it would **NOT** be appropriate to formally interview the adult at this stage until the inquiry decision making confirms evidence to progress to Investigation
- Consideration of appropriate services/supports such as advocacy, communication supports and any other practical supports necessary. Again, however, this should **NOT** be confused with a more general assessment of needs visit.

Practice Note 6: Visits

In East Ayrshire we allow a visit under Section 4 of the Act to the adult as part of the ASP Inquiry phase (without having to automatically move to the ASP Investigation phase). However this would only be relevant where information gathered from standard inquiry practice has not been sufficient to determine an outcome to the inquiry and concerns have not been allayed. It is important to ensure that the adult visited and any other parties present are made aware that you are there as a result of ASP concerns having been raised and that this is a visit to check their safety, clarify any initial information you have been given and/or offer any advice, guidance or assistance under the Social Work (Scotland) Act 1968. The Inquiring Officer should ensure they do not stray into an investigative interview and should be clear with all relevant persons that this is not an investigative interview under S8 of the Act and that the adult does not have to answer any questions or engage with the Inquiry in any way.

If the Inquiring Officer identifies during the course of their visit information that may require further consideration and/or investigation they **must** stop the visit and advise the adult they believe a more formal investigative interview may be required and they are going to seek advice and a further visit may be made under formal adult protection and explain what this would entail.

Where it is **known** or **believed** that an adult may be at risk of harm the duty to inquire under Section 4 of the Act is triggered and **must** be concluded within 5 working days. The Act allows the Council to be assisted in its duty to inquire through a variety of sources, for example, Independent and third sector providers and statutory bodies.

If there is a child in the household or involved who may be at risk the circumstances **must** be reported to Children's Health, Care and Justice Service's duty team immediately as detailed within the ASP Liquid Logic Procedure. This will allow decisions to be agreed about how best to proceed to ensure the welfare of the child remains paramount while ensuring support and protection for any adults at risk of harm.

If, during the course of an inquiry any person is subject to MAPPA this must be reported to the Offender Management Unit or Justice Services. Any information of concern regarding an individual subject to MAPPA should be shared with Community Justice and Police who, depending upon who is the lead body, will record on VISOR

(Violent and Sex Offender Register) or Dangerous Persons Database which is the police national database for information sharing.

For further information on the NHS Sexual Assault Response Co-ordination Service (The Willows) please refer to SOP.

If, during the course of an inquiry harm is thought to arise from an unpaid carer, the inquiry **must** also give consideration to the carer's circumstances. Workers should be aware that unpaid carers may also experience disabilities or ill health which may impact on their caring role. Any carer **must** be offered a Carer's Support Plan and **must** also be offered their own access to support, particularly if they will be attending meetings or are participating in the adult protection process. However, caution should be applied to ensure the needs of the carer do not overtake the needs of the Adult or cloud judgement in relation to harm to the Adult.

If during the course of an inquiry information is obtained that the adult at risk or the alleged person causing harm is a person employed by a statutory, private or voluntary care agency, the inquiring officer must share this information with their Team Manager to ensure any individual or public protection risks are fully considered and the next course of action agreed.

It would be important to note that advice and guidance can be sought from [Human Resources](#) to ensure appropriate support is available and advice is provided to ensure the employee is not treated any less favourably than any other adult at risk of harm or alleged harmer.

Practice Note 7: Large Scale Investigation

In East Ayrshire where an Inquiring Officer and/or Team Manager identifies that a referral indicates the criteria for a Large Scale Investigation (LSI) may be met they must discuss the circumstances with the relevant Service Manager for that Service. The Service Manager arranges for completion of a Significant Occurrence form for consideration by Senior Manager for progression to LSI and follows the process outlined in the [LSI Flowchart](#) and the [West of Scotland Adult Support and Protection Network Large Scale Investigation Guidance 2023](#). An LSI is a multi-agency response to circumstances where there may be a risk of serious harm within a care setting (this may be either residential care, day care, home based care or a healthcare setting). The circumstances of concern could have arisen during a short timeframe or have accumulated over a longer period. Additionally, there could be circumstances where the seriousness of the harm experienced by one individual and potential impact on others would merit a large scale investigation.

Further details on LSI is contained within this procedure at Section 8 and the criteria for consideration of a Large Scale Investigation can be found in Section 2 of the [West of Scotland Adult Support and Protection Network Large Scale Investigation Guidance 2023](#).

Step 3 Adult Support and Protection Planning Meeting

An Adult Support and Protection Planning Meeting is a **workers** multi-disciplinary/multi-agency meeting to ensure sufficient information is shared between relevant agencies in order to inform decision making about the level of risk and intervention. This **must** be held no later than **5** working days of the referral being received, is chaired by the relevant Team Manager and minuted by Protection Admin.

7.5 When should an Adult Support and Protection Planning Meeting be Held?

An Adult Support and Protection Planning Meeting must be held:

- When two or more agencies have had involvement **and** the situation has a degree of complexity, or
- If there have been repeated referrals made by any agency where this has not progressed to investigation and therefore no multi-agency discussion and agreement regarding protective intervention has been undertaken or
- Where the alleged harmer or adult at risk is an employee of a statutory, private or voluntary care agency, then an Adult Support and Protection Planning meeting **must** be held. Note if 3 adult protection referrals have been received for the same incident, then this will be accepted as 1 referral in these circumstances.
- If a DASH Risk Assessment Checklist indicates the criteria for a referral to MARAC is met.

An Adult Support and Protection meeting **may** be held as an alternative to gathering information for an inquiry via telephone call, teleconference call or email if the Inquiring Officer deems this to be a more appropriate and effective way of information sharing and assessing the immediate level of risk.

The critical aspect in cases of repeat referrals is to be assured that all information is shared and understood and has enabled a clear multi-agency approach to decision

making. Service Managers should offer oversight and arm's length review To ensure any complex cases with escalating risk, repeat referrals for any further action or any agency stating disagreement with the decisions made are appropriately reviewed and effective multi-agency communication is undertaken. The confirmed position and decisions must be recorded on Liquid Logic.

A full description of an Adult Support and Protection Planning Meeting definitions, roles and expectations and all statutory meetings is contained within the East Ayrshire Statutory Meetings Guidance available on the [Adult Support and Protection Intranet page](#).

Step 4 Outcome of Statutory Duty to Inquire (Section 4)

It is the responsibility of the Inquiring Officer to conclude inquiries which **must** be recorded on the adult's Liquid Logic record to justify further action/no further action. The Inquiring Officer will ascertain the risk to the adult and assess whether the adult meets the three point test and therefore requires further intervention under adult protection. The full process for this stage on Liquid Logic is available within the ASP Liquid Logic Procedures. The authorising Team Manager **MUST** be a qualified Council Officer.

7.6 Adult **Does Not** Meet the 3 Point Test

If it is deemed that the adult does not meet the three point test, then this should be evidenced on Liquid Logic. This does not absolve the Inquiring Officers responsibility to consider if the adult requires assessment for alternative supports or advice and guidance. This outcome should also be recorded in the recommendation section of the Initial Inquiry and actions such as alternative assistance progressed and recorded on Liquid Logic. The Team Manager while either authorise or decline the recommendations or return with a request for further information.

7.7 Adult **Does** Meet the 3 Point Test

Following assessment of information gathered in the Initial Inquiry phase the Inquiring Officer must ascertain whether the adult meets the 3 point test, or not. If it is deemed that the adult meets the three point test, then this **must** be evidenced and recorded on Liquid Logic. All Adults who are deemed to meet the 3 point test will automatically progress onto an Investigation under the [Adult Support and Protection \(Scotland\) Act 2007](#).

Grade 8 Inquiring Officers **must** discuss this outcome with their Team Manager in advance of recording onto Liquid Logic to ensure that the Team Manager is in agreement with this course of action. Similarly any decision of no further action under adult protection at Inquiry stage must be authorised by Team Manager.

Step 5 Statutory Duty to Investigate (ASP Sections 7 and 8)

Definition: For the purpose of these procedures an Adult Protection Inquiry moves to an Investigation when an Inquiring Officer has established that the Adult meets the 3 point test as defined in the [Adult Support and Protection \(Scotland\) Act 2007](#). The statutory duty to investigate requires a Council Officer and Secondary Worker to be allocated by the Team Manager to undertake a visit under s(7) of the Act for the purpose of an interview under s(8) of the Act with the adult deemed to be at risk or any other persons present during the visit. Other investigative interventions include where a Council Officer arranges a medical examination under s(9), examination of health, financial or any other records under s(10) or the application for any protection orders including assessment and removal as part of the investigative process under s(11 – 19).

7.8 Statutory Duty to Investigate (Sections 7 and 8)

All investigations **must** be completed within **21 working days of completion of the Inquiry – there is a working assumption that Inquiries will be completed within the required 5 working day timescale**. In other words, Investigations must be completed **within 26 working days** of receipt of referral.

Actions to be taken by the Team Manager:

- The Team Manager **must** ensure that a Council Officer and Secondary Worker, who may be from another local authority, (where required) are allocated to undertake the Investigation.
- The Team Manager **must** ensure that the Council Officer and Secondary Worker have the support they require during the Investigation process including reflective opportunities to inform decision making.
- The Team Manager **must** retain oversight of the Investigation AND monitor timescales for completion.
- The Team Manager **must** ensure that where there is any active adult support and protection activity that there should be no internal transfer of the case unless agreed and recorded as part of the formal decision making process in respect of the Adult at Risk

Practice Note 8: Investigation Planning

The Team Manager must consider the following when discussing the Investigation with the Council Officer and record a summary of any salient points from the discussion areas below on Liquid Logic:

- That adherence is being maintained to the Principles of the Act
- Whether intervention is necessary and proportionate to the level of risk
- Whether an MHO is required, especially if alleged harmer is the welfare POA or Guardian
- Whether the Police should be consulted if potential criminality
- Consider contact, joint working and/or information sharing requirements where another Local Authority has a locus e.g who may have funding and or care responsibilities for an adult identified at risk of harm
- Consider whether other legislation would be appropriate
- Consider whether referral to MARAC would be appropriate
- Consider if the intervention is appropriate to the level of risk and if any immediate action is required to protect the person
- Ensure that the duty to consider advocacy and other services is undertaken including communication support for the adult
- Consider the worker's safety and how to manage risks to them
- Consider the need for an ASP Case Conference
- Consider whether there is any undue pressure evident
- Consider the need for any medical intervention (S9 of the Act)
- Consider the need to access records (S10 of the Act)
- Consider a contingency plan should the Council Officer be unable to access the adult
- Consider and keep under review whether a Protection Order is required (Section 11 of the Act)

Actions to be taken by the Council Officer (who should also refer to the [Council Officer Procedural Handbook](#) for additional guidance):

- Gather any further information from any relevant agencies. Police Scotland, NHS, Mental Welfare Commission, Office of the Public Guardian and Care Inspectorate have a duty to co-operate under s5 of the Act.
- The investigation **must note and** take account of any previous concerns, reports or significant incidents involving the adult at risk.
- In preparation for conducting a visit and interview the Council Officer **must** consider how to minimise distress for the adult, a safe interviewing environment, the use of communication aids or the use of an interpreter or a support person.
- The support of an Appropriate Adult may be required for people subject to a diagnosed mental disorder if they are being interviewed by Police as a witness, victim of crime or the alleged perpetrator; the Police have the responsibility to arrange for an Appropriate Adult to be available and should be notified where it is known this will be required.
- The visit will be made to the adult at risk to gather any further information relating to the alleged harm, ascertain his or her views and determine the level of risk.
- Council Officers have a duty to consider the need for support services (as detailed in s6 of the Act) for the adult, specifically (but not limited to) advocacy **must** be offered to the adult at risk if progressing to an investigation under the Act, if declined or not provided then a reason **must** be recorded. Similarly any known Carer **must** also be offered advocacy if relevant regardless of whether they are the alleged harmer, or not.
- Any unpaid Carer **must** also be offered a Carers Support Plan in line with Carers Legislation.
- Council Officers **must** be mindful of any information obtained during the course of the investigation that will require to be communicated to Police Scotland.
- If the alleged harmer is also known to agencies, the care manager **must** be informed so that risks can be assessed, and a risk

management plan put in place. This also applies when another local authority is responsible for the provision of support.

- The alleged harmer has a right to have their views taken into account and must be informed of the allegations and that the Health and Social Care Partnership will retain personal information on them where disclosure to the alleged harmer would NOT put the adult or any other person at risk, or if disclosure would be likely to jeopardise the prevention or detection of a crime.
- Recommendations **must** be clearly documented and attributed within the Investigation.
- The Council Officer **must** ensure that the transcribed summary of the notes of the Investigative Interview are recorded on Liquid Logic as per process detailed in the [ASP Liquid Logic Procedure](#).
- The Council Officer must ensure that the Investigation episode on Liquid Logic is completed in full as this forms the Investigative Report which contains a full analysis of risk and is used to inform the Case Conference and/or any further decisions in respect of intervention.

Actions to be taken by the Secondary Worker

- The Secondary Worker **must** assist the Council Officer in preparing for the Investigative Interview
- The Secondary Worker **must** take detailed but salient notes of the Investigative Interview that relates to the protection concern.

Practice Note 9: Conducting an Interview

If Access **is** gained:

- The Council Officer **must** interview the adult at risk and any other adult present, as appropriate.
- The adult at risk **must** be assisted to participate as fully as possible in the proceedings, for example, provision of advocacy, communication supports

etc... He or she **must** be informed before the interview that they are not required to answer any questions.

- The adult has the right to have a person(s) of their choice present at interviews, however s8 of the Act allows a Council Officer to interview the adult in private and exclude anyone if a person present is thought to have caused or poses a risk of harm to the adult, the adult indicates that they do not wish the person present or it is believed that the adult would communicate more freely if interviewed alone or if there is a concern of undue influence from others
- The Council Officer **must** conduct the interview and the Secondary Worker should take detailed notes (verbatim not required). Both workers **must** observe the reactions of the adult at risk and the dynamics of personal relationships. They **must** also assess the environment. Depending on the circumstances it may be appropriate to view the sleeping arrangements, kitchen environment and food storage and access heating arrangements.

Practice Note 10: Action when unable to obtain access to Adult

If Access **is not** gained:

- The Council Officer **must** consider and discuss alternative options for accessing the adult with the Team Manager, for example, through contacting relatives or other professionals or accessing the adult via day services
- If these options are not successful, then a warrant for entry under Section 37 of the Act **must** be considered if proportionate to the level of risk and circumstances relating to the harmful situation and evidence of decisions recorded on Liquid Logic
- Consideration **must** be given as to whether it is more beneficial for the individual that access be gained under other legislations, for example, [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) to facilitate access to a mental health assessment, care or treatment for a mental disorder or if further

intervention under the adults with incapacity act may be required to protect the adult in the longer term.

- If all other reasonable options have been considered and exhausted, then Legal Services **must** be contacted as early in the process as possible to discuss and prepare an application for a Protection Order. Applications will be prepared and lodged at Court by Legal Services based on the information that has already been gathered by the Council Officer which must include the assessment of why the criteria for serious harm is met.

7.9 Promotion of Adult's Rights

A decision to gain entry/access to an adult's home to undertake further assessment or investigation is a significant level of intrusion into an adult's private life and applying the legal principles to the intervention will assist in balancing the right of privacy and the right to be safe and free from harm and abuse. It is crucial therefore that in circumstances where it is believed that the adult at risk of harm may be experiencing a mental disorder or learning disability the workers must make sure that the adult is not being, without justification, treated less favourably than the way in which a person who is not an adult at risk of harm would be treated in a comparable situation. Specific consideration is therefore required to determine if the adult's condition is affecting their ability to consent to access or protect themselves. This will ensure any decision that is made to gain entry/access to an adult's home is proportionate to the level of risk and circumstances and respects their right to liberty and security under Article 5 of the European Convention of Human Rights (ECHR) and Article 5 of the Human Rights Act 1998.

In order to do this it is essential to ensure that the worker has fully considered less restrictive alternatives to gain access to the adult. For example, it may be a power of attorney or legal guardian is sought to determine if they can give informed consent to the adult being interviewed, or gaining access to the property prior to the consideration of a Protection Order.

Where the proposed action will result in a restriction or deprivation of liberty, the Council Officer and Team Manager **must** ensure:

- That any action is; necessary, proportionate to the risk identified, has a legal basis to the proposed action, gives consideration to mental capacity of the adult and will **benefit** the adult

7.10 Investigative Interview

The purpose of an Investigative Interview is to:

- Check the accuracy of allegations;
- Establish, record and professionally analyse the facts about the circumstances which have given rise for concern;
- Establish with the adult whether they feel that their personal safety is at risk and their views on support or intervention
- What the adult's views are on sharing information about the incident with staff and other agencies who need to know;
- Decide whether or not actual or suspected harm (or serious harm) has **or is likely to** have taken place and record the reasons for these conclusions;
- Identify and analyse level of risk;
- Decide if any protective action or support is needed for the adult or any others and take action to reduce risk and protect the person(s) ensuring this is recorded appropriately in line with practice standards;
- Ensure that appropriate action is considered and taken in respect of any person who may be causing intentional or unintentional harm to an adult at risk;
- Involve the adult or their legal proxy (POA, Guardian) as fully as possible in line with S6 of the Act within the investigative process. This may involve the use of an advocate, translation or sensory impairment service or someone of the adult's choice to support them.
- Ensure any unpaid Carer who meets the criteria will be informed of their right to a Carers Support Plan and offered any immediate support required.
- Ensure any current risk of domestic violence is considered.

Practice Note 11: Interview Preparation

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 and planned to minimise distress to the adult);
- 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, if required, in the investigation and arrangements for this;
- 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 and where appropriate make contact with them as early as possible to initiate discussions around requirements

7.11 Retention of Adult Support and Protection Handwritten Investigation Notes

Following the undertaking of an ASP Investigative Interview under Sections 7 and 8 of the Adult Support and Protection (Scotland) Act 2007 the handwritten notes must be:

- Transcribed to a word document and then attached to the corresponding Adult Protection Episode on LiquidLogic as per the process detailed on the [ASP LiquidLogic Procedures on Page 17](#).

The Handwritten notes **must be retained for a period of six months** following the Investigative Interview being undertaken. Therefore the following process must be followed:

Investigating Officer/Secondary Worker

Investigating Officer must pass the handwritten notes to:

- Admin Assistant (NWKAC)
- Admin Assistant (Community Care TJWB)
- Admin Assistant (Community Care Rothesay House)

Administrative Officer

Admin will attach a template to the handwritten guidance noting:

- Date of ASP Investigative Interview
- Service User Name
- Service User LL Number
- Investigating Officer
- Date Investigative Interview Notes to be destroyed (six months from date written)

7.12 Medical Examination (ASAP Act, Section 9)

Any medical examination under the Act may only be carried out by a health professional which the Act defines as a Doctor, Nurse or Midwife. Medical examination may be required as part of an investigation for a number of reasons including, but not limited to the need to:

- Assess the adult's need for immediate medical treatment;
- Provide evidence of harm to inform any decision to intervene further including to make an application for a protection order to protect the adult;
- Provide information that may indicate the need to contact the Police to investigate circumstances where criminality is suspected;
- Assess the adult's ongoing physical or mental health and support needs;
- Assess the adult's mental capacity to make decisions and act on these in order to protect themselves;

Should during the investigation the Council Officer believe a medical examination and/or treatment by a health professional is required, wherever possible this **must** be discussed and agreed with the adult. In situations of extreme risk or urgency, the Council Officer may need to take immediate action by contacting emergency

services without the adult's consent if necessary, to save life or avoid significant deterioration.

If the adult has been subjected to sexual harm the Council Officer must alert their Team Manager in order for discussions to be held with Police Scotland and agree a collaborative approach to intervention. Any medical examinations should be arranged by the responsible Team Manager in consultation with Police Scotland remembering the need to ensure any potential forensic evidence is not compromised.

An adult **must** give consent to any medical examination **unless** he/she lacks capacity. This may require the Council Officer to consider other appropriate legislation for example, [Adults with Incapacity \(Scotland\) Act 2000](#) and [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#).

Practice Note 12: Joint Visits with Clinicians

- The Council Officer should be clear with the medical practitioner the legal status of the request, for example if this is being enacted through the use of a Protection Order. The use of an Order will require planning and a degree of negotiation with third parties for example a General Practitioner, Police or Legal Services.

7.13 Examination of Health, Financial or any other records (ASAP Act, Section 10)

Where there is a legal requirement for the Council Officer to access existing records in order to inform the investigation, they can request health, financial, DWP or other relevant records in relation to an individual that the Officer knows or believes to be an adult at risk from any relevant body/organisation under S10 of the Act. The Form for this is contained within Liquidlogic within the ASP Episode.

All copies taken of original records must be given directly to the Council Officer with the exception of health records which must be considered in the first instance by the appropriate health professional to provide a summary of relevant information for the Council Officer. This could be for example a General Practitioner, Practice Manager, Specialist Nurse, Allied Health Professional, or Consultant who has had involvement with the adult and has access to the relevant health information.

These requirements conform with the Caldicott Principles and responsibilities for NHS staff who must; justify the purpose(s) for using confidential information; only use when absolutely necessary; use the minimum that is required; and provide access on a strict "need to know" basis. Therefore, only relevant information should

be provided to the Council Officer who should confirm who the information will be shared with and note any requests and rationale for non-disclosure by any party.

Any request for records for example Care Diaries or District Nursing Diaries can be made verbally to the relevant person as part of an investigative visit. In all other circumstances the preferred method would be use of the generic S10 form available on Liquid Logic, alternatively the request can be made via confidential email which must clearly state the legislative basis for the request, the status of the Council Officer and the specific information requested, and why.

The Council Officer must ensure that they record that they have requested additional information under Section 10(1) of the [Adult Support and Protection \(Scotland\) Act 2007](#) in the adult protection investigation process of the adult's liquid logic record.

Practice Note 13: Obtaining Consent to access records

In line with the principles of the Act the adult's consent should be sought to access records relating to them. If this is not possible the adult should be informed that information is being sought and from whom. For example, when:

- The adult lacks the mental capacity to consent;
- The person acting as proxy with the relevant powers for the adult is unavailable or unwilling to give consent and their unwillingness is deemed to be unreasonable or not in the best interests of the adult;
- The situation is so urgent that attempting to obtain consent would cause undue delay;
- The process of obtaining consent would put someone at risk of serious harm;
- The purpose of obtaining consent would undermine the prevention or detection of a crime.

Best practice indicates that records provided are copies rather than original documentation. Clear arrangements for retention timescales and destruction of records should be agreed with those providing the information.

In exceptional circumstances where original records may require to be removed and copied by the Council Officer, these should be signed for and returned as soon as practicably possible.

7.14 Adult **Does Not** Meet the 3 Point Test

If it is deemed that the adult does not meet the three point test, then this should be evidenced on Liquid Logic. This does not absolve the Investigating Officers responsibility to consider if the adult requires assessment for alternative supports or advice and guidance. This outcome should also be recorded in the recommendation section of the Investigation and actions such as alternative assistance progressed and recorded on Liquid Logic. The Team Manager/Service Manager will either authorise or decline the recommendations or return with a request for further information.

7.15 Adult **Does** Meet the 3 Point Test

Following assessment of information gathered in the Investigation phase the Investigating Officer must ascertain whether the adult meets the 3 point test, or not. If it is deemed that the adult meets the three point test, then this **must** be evidenced and recorded on Liquid Logic. All Adults who are deemed to meet the 3 point test will automatically progress onto an Initial Case Conference either ASP or Joint ASP/AWI under the [Adult Support and Protection \(Scotland\) Act 2007](#). In parallel to this, it may be that protective factors may be required in the interim; these should be evidenced within the recommendations of the Investigation.

7.16 Protection Orders (ASAP Act, Sections 11 - 19)

Definition: Protection Orders can only be applied for where there is evidence of **serious Harm** to the adult; where the adult has capacity for decision making a protection order cannot be granted by the Sheriff without the adult's consent unless it is proved that the adult has been subject to undue pressure to refuse consent. Any consideration of an application for a legal Order should be discussed in the first instance with legal services who will advise if the threshold for such an Order is met or if further information / action is required in advance of any application.

There are 3 types of Order that can be applied for to the Sheriff Court and full details can be accessed through the following links:

[Assessment Order \(s11\)](#)

[Removal Order \(s14\)](#)

[Banning Order/Temporary Banning Order \(s19\)](#)

It should be noted that in situations where adults perpetrating harm are subject to statutory criminal justice disposals these supersede any consideration of an Order under the Adult Support and Protection Act for the duration of the disposal. It is possible to prepare an application for a Protection Order in anticipation of the ending of any such criminal disposal, however this decision should be made and recorded as part of the adult protection processes for example within an Adult Protection Case Conference or equivalent meeting where evidence of the potential for continuation of reoccurrence of a harmful situation is reasonably anticipated.

Representation of the Adult

The adult is entitled to be represented within the Court process, however 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, for example, where the adult wishes to be accompanied by that person, the Council Officer should instruct Legal Services to inform the Sheriff prior to the Hearing being held. This will allow the Sheriff to decide whether to apply the provisions available under the Vulnerable Witnesses (Scotland) Act 2004.

Serving of the Order

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

Breach of an Order with Power of Arrest

The Power of Arrest becomes effective only when **served on the subject of the Order**. Under Section 28 of the Act where a Banning Order or Temporary Banning Order has a Power of Arrest attached a police 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 in practice the constable cannot and would not arrest the individual if this was the first contact following the granting of the Order, but offer advice and highlight a further breach could result in an arrest being made.

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.

Practice Note 14: Protection Orders and Consent

An Adult must consent (refer to section 35 of legislation) to the application for a Protection Order and these must not be applied for without consent unless the Council Officer can evidence Undue Pressure by another or has a formal medical opinion of incapacity. This evidence must be provided to the Sheriff (a letter from a General Practitioner confirming the position has been accepted in previous Court applications) and the adult must be kept advised of what is happening as far as practicably possible.

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

It is also best practice to ensure that paid and unpaid carers providing care and support and kept up to date with the proceedings, where appropriate. This is also required where a paid Carer is a guardian or a power of attorney and has powers that entitle them to make decisions or act on the adult's behalf.

When a Protection Order has been granted in respect of an adult with mental illness, learning disability or related condition, the Mental Welfare Commission must be notified as detailed in Section 5.14 of this procedure.

7.17 Protection Orders (ASAP Act, Sections 11 - 19) and Liquidlogic

All Protection Orders (Assessment, Banning and Removal) Orders must all be recorded on the adult's Liquidlogic Record. To ensure this process is followed, all practitioners progressing a Protection Order must contact HSCPASP@east-ayrshire.gov.uk to log relevant information and send the following documents:

- Name and LL No of the adult that the Protection Order relates to
- Copy of the Summary Application for the Protection Order
- Copy of the Affidavit for the Protection Order
- Copy of the Protection Order as approved at Court
- Any other relevant documentation

Step 6 Adult Support and Protection Initial Case Conference

Definition: An Adult Initial Protection Case Conference is a **multi-agency, multi-disciplinary** meeting following inquiry and investigation that should be held within **42 working days** of receipt of referral (or within **14 working days** of a Protection Order being granted) and is chaired **only** by Service Managers or above. [The Chairs Procedural Handbook](#) provides specific guidance on what Chairs of Case Conferences need to know in relation to all aspects of the Case Conference: before, during and after and should be read in conjunction with this guidance

- and if so, establish membership and leadership of Core groups and date for Review Case Conference.
- The decisions of a review Case Conference should identify risks to be considered within the Protection Plan.

7.18 Council Officer Case Conference Preparation

The preparation for any meeting is essential to the success and effective implementation for the support and protection of any adult at risk of harm. [The Council Officer Procedural Handbook](#) provides further guidance on the role of the Council Officer: before, during and after a Case Conference and should be read in conjunction with this guidance

The following quick guide provides essential components that should be adhered to once the Investigation has been approved by your Service Manager that an Initial Case Conference is required:

- Have you checked that the individual has an Advocacy Worker, if not have you discussed this and made the referral?
- Is the Adult and their Advocacy Worker aware of the decision to proceed to Case Conference in order for them to have as much time as possible to prepare and ascertain the adults views
- Consider any options/innovative ways that would support the adult to attend all, or part of the Case Conference (in partnership with the adult, their carer/legal proxy (where appropriate) and/or advocate)
- Discuss and agree with your Team Manager who should be invited to attend the Case Conference, ensuring optimum attendance with

consideration of time and day for Conference for example for professions: out with clinic times and for any individual or their unpaid carer: a time that does not disrupt their routine as far as practicable

- Ensure the reason for the Initial Case Conference is communicated to all those who have been invited
- Team Manager to agree date of Initial Case Conference with the Service Manager identified as the Chair
- Liaise with Protection Admin (EACProtectionAdmin@east-ayrshire.gov.uk) to advise of meeting date, request minute taker, provide list of invitees to allow for the Initial Case Conference to be scheduled. Where alternative options have been considered for example MS Teams, Near Me/Attend Anywhere or the adult's own home this should be communicated to Protection Admin.
- Liaise with Protection Admin to confirm attendees, apologies and any reports submitted. Once identified, this information should be passed onto the Chair
- Provide the Chair with any relevant additional information for example family dynamics which may support/assist them in their role
- The Chair of the Initial Case Conference will expect you to provide a Briefing Report at least 1 week prior to the Case Conference which will also be used to present to the Case Conference. A Briefing Report Template is provided for this purpose.

Practice Note 15: Case Conference criteria and legal options consideration

An Adult Protection Case Conference **must** be held if information from inquiries/investigation indicates a level of serious harm and/or multi-agency involvement which may require consideration of more restrictive legal measures, for example, ASP Protection Orders, or consideration of other statutory intervention. If other legislation is to be considered for example [Adults with Incapacity \(Scotland\) Act 2000](#).

Other factors to consider that may warrant the need for an Adult Protection Case Conference are where there are difficulties accessing the adult and/or the adult declines to participate, there is a risk of harm being repeated against the adult, other adults at risk and/or the public which cannot be managed within care management arrangements.

Chairs must ensure that when they consider dual legislation within the case conference process for example initiating an Adult Protection Case Conference but also covering Adults with Incapacity, they must ensure invites, introductions to meetings and minutes make this explicit. This will ensure everyone in attendance is clear that the criteria and principles of each legislation will be discussed within this single meeting. Chairs must focus the discussion on the prevention of harm and direct staff to care management requirements for all other longer term support requirements.

7.19 Adult's Participation and Representation

The adult at risk **must** 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 **must** be noted that any person excluded from a Case Conference should be recorded on the minute with justification provided as to the reasoning and agreed arrangements for informing the person of the Case Conference outcome.

Consideration should always be given to helping the adult and/or carers to fully participate in this important decision making process. An invitation to attend is not in itself sufficient, consideration **must** 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, for example, reports provided by external agencies where their attendance is not essential;
- The appropriate communication aids, translation/sensory impairment services are provided which may include talking mats;

- Individuals from minority ethnic communities have access to any relevant communication support including an independent interpreter 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 **must 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.

7.20 Agencies Participation and Attendance

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

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

7.21 Decision Making

During the course of the meeting a number of key considerations and decisions require to be made by the Chair, as summarised below:

- Whether there are enough agencies/services represented to make an informed decision; for example there should be at least two statutory agencies represented and all services with relevant involvement should be in attendance or provide reports
- If the decision of the meeting is **to cease** monitoring under formal adult protection procedures then make clear any arrangements for alternative risk assessment and management, for example via Care Programme Approach (CPA), Multi Agency Public Protection Arrangements (MAPPA), My Life, Feeling Safe or within a specific service support/care plan which must be specific about the nature of harm, expectations of how this is managed and who the service must report any escalating or changing levels of risk to
- If the decision of the meeting is **to continue** monitoring under formal adult protection procedures, then to make arrangements for the completion, implementation and review of a Protection Plan including identification of lead roles and responsibilities;
- Where serious harm is identified, consider appropriateness of and the need for Protection Orders and referral to MARAC;
- Consider the appropriateness of any alternative legislation, for example, Adults with Incapacity (Scotland) Act 2000 or The Mental Health (Care and Treatment) (Scotland) Act 2003 and make clear arrangements for this to be undertaken;
- Consideration of a referral to the Police if information relating to a possible crime has come to light;
- Confirm whether any other professional bodies require to be notified or have a further role, for example, Mental Welfare Commission, Office of the Public Guardian, Care Inspectorate, Nursing and Midwifery Council and who is responsible for this;
- Agree where a further review case conference is required, the membership of an Adult Protection Core Group meeting and who will be the co-ordinating Lead Team Manager;
- Agree a time (within 1 week) when the allocated worker should visit the adult, and carer to ascertain whether they understood the process and

outcomes of the meeting and whether any items remain unaddressed or whether any new concerns have arisen.

- The Team Manager must ensure that where there is any active adult support and protection activity that there should be no internal case transfer unless agreed and recorded as part of the formal decision making process in respect of the Adult at Risk

7.22 Raising and resolving disagreements

Learning from the East Ayrshire Significant Case Review in respect of Adult L identified that "...organisations and individuals who make referrals to social work regarding vulnerable people should be encouraged to escalate their concerns to more senior staff where they are not satisfied with the response to their concerns. In an open and transparent system properly focused on protecting vulnerable individuals, escalation should not be seen as a challenge, but instead viewed as a clear statement of continuing concerns..."

In response to this learning the East Ayrshire HSCP Adult Support and Protection Dispute Resolution Policy and Procedure: 9 October 2023 is now available. This procedure provides the underpinning values as well as the duties and responsibilities in collaborating to protect people at risk of harm and how best to achieve this when disagreements arise. The procedure outlines a 4 stage process and where a head of service has cause to trigger the stage 4 level they must ensure the adult protection committee chair is notified highlighting points for multi-agency learning. The mechanism for this is via the routine HSCP update report provided to the Committee.

Practice Note 16: Chairs Role in recognising conflicting views

The Chair of an Adult Protection Initial/Review Case Conference should ensure all views are sought and heard and has the responsibility to identify underlying conflicts of information or opinion, to highlight them and ensure they are discussed and resolved where possible. Where there is dissent from any agency, it should be carefully recorded along with any reasons for the same and the 4 stage process identified within East Ayrshire HSCP Adult Support and Protection Dispute Resolution Policy and Procedure: 9 October 2023 followed.

Step 7 Protection Plan

7.23 Protection Plan

A Protection Plan must be completed when an Adult Protection Case Conference has decided that due to the level of risk, the adult requires to continue to be monitored under formal adult protection procedures; this could include ongoing consideration of a Protection Order. The Protection Plan will be completed in draft format initially by the Council Officer in advance of the Core Group and then will be finalised by the Core Group. It will detail the ongoing arrangements required to protect the adult between Case Conferences and will also include a contingency plan should the agreed arrangements alter. It will also be reviewed at regular intervals by the Core Group.

The Protection Plan **must** include:

- Arrangements and supports in place
- People's respective lead roles in the Adult Protection Plan and intended outcomes
- Nominate a responsible worker, usually the Council Officer, as a single point of contact who will receive all communication from relevant parties to ensure they retain oversight
- Agree frequency of visits to the adult at risk, and by whom, unless otherwise agreed and recorded
- Support for the adult, for example, victim support/advocacy
- If there is no existing chronology, consideration must be given to including an action to complete this within the Protection Plan. However, good practice indicates that a chronology is undertaken at the outset of ALL ASP work
- Any arrangements/supports to be put in place as an outcome of a MARAC referral made within this ASP episode
- Any legal steps that require to be taken to protect the adult
- Contingency Planning – arrangements for immediate action for possible change in the circumstances including increased levels of risk

The Team Manager will retain responsibility for implementation of the Protection Plan to ensure that actions are carried out within timescales. The Team Manager

will ensure that ongoing risk assessment is carried out to inform the Protection Plan, including any changing circumstances that may require consideration of an earlier review meeting.

Step 8 Adult Support and Protection Core Group Meeting

Definition: An Adult Protection Core Group Meeting is a **multi-agency, multi-disciplinary** meeting actioned by the Initial and/or Review Case Conference for responsibility for compiling the Protection Plan and ensuring the ongoing risk, ongoing support, risk assessment and management in relation to the adult is in place. They ensure that the Protection Plan and any Protection Order is implemented, monitored and updated as required. They should be held within **10 working days** of the Case Conference and a **minimum** of 4 weekly thereafter.

Following the meeting the minute taker will transfer the meeting agreements and actions onto a Protection Plan and pass to the Chair for approval in advance of circulation to all relevant agencies/parties.

- The co-ordinating Team Manager will ensure arrangements are in place to communicate core group meeting arrangements to the multi-agency, multi-disciplinary core group;
- The co-ordinating Team Manager will ensure arrangements are in place for the adult to be visited on a weekly basis for the duration of the core group meetings;
- The Core Group must ensure and arrange for the full engagement of the adult and his or her formal and unpaid carers where appropriate and the ongoing implementation and review of the protection plan;
- The Core Group Chair is responsible for escalating any significant delay or lack of progress within any protection plan to the Case Conference Chair to ensure arrangements are put in place to review this within the case conference process
- The Core Group should be minuted by an experienced minute taker from locality admin teams to reflect key decisions, additional risks or concerns and progress made in relation to the efficiency of the Protection Plan, there is no requirement for extensive minute of discussions pertaining to these items;
- The minutes should be checked for accuracy and distributed to the core group members within **5 working days** of the core group meeting.

Practice Note 18: Core Group Criteria

An Adult Protection Core Group meeting must be held where the decision of an Initial or Review Case Conference is that the adult is at continued risk of serious harm and that this requires to be managed within a formal Adult Support and Protection Plan. Further factors that may be present may be whether there is multi agency/multi-disciplinary involvement which involves further assessment and/or involvement of those agencies that require higher levels of communication and monitoring than care management procedures would provide.

Step 9 Adult Support and Protection Review Case Conference

Definition: An Adult Protection Review Case Conference is a **multi-agency, multi-disciplinary** meeting following an Initial Case Conference where the decision has been made to continue monitoring the adult under formal adult protection procedures and should be held no later than **three months** following the Initial Case Conference and is chaired **only** by Service Managers or above. Further guidance on Review Case Conferences is available via the [Chairs Procedural Handbook](#).

The updated Protection Plan from the Core Group should be available to the Chair of the Review Case Conference **3 days prior** to the meeting.

7.24 Format of Adult Support and Protection Review Case Conference

The Adult Support and Protection Review Case Conference will follow the same format as detailed in Step 6 for the Adult Support and Protection Initial Case Conference.

The meeting will assess the impact and effectiveness of the Protection Plan and decide if further action is required. The updated risk assessment will be made available to the meeting and will be presented by the Council Officer. If there are still significant risks identified the case will continue to be monitored via the Adult Support and Protection Core Group and regular Adult Support and Protection Review Case Conferences will be held on a 3 monthly basis.

If the risks are able to be managed out with formal adult protection procedures, then the decision to discontinue the process and further supportive action and monitoring actions **must** be recorded on Liquid Logic. Any Adult no longer considered as an adult at risk of harm **MUST** have a My Life My Review undertaken no later than 3 months from the point of the decision being made.

Practice Note 19: Protection Order Renewal/Revocation Decisions

In Adult Support and Protection Episodes, where there is an ongoing Protection Order and decisions are being made to either discontinue or renew the Order then the ASP Review Case Conference **must** be chaired by a Service Manager **and not** delegated to a Team Manager as part of their continued professional development.

7.25 Ending the Adult Protection Investigation on Liquid Logic

Once all actions have been completed that relate to the Adult Protection Investigation, which includes any follow up action identified following the

completion of the Adult Protection Investigation, then the Council Officer must complete the ASP Investigation Closure on Liquid Logic ensuring all requested information is completed. This must then be re-assigned to the Council Officer's Team Manager who will review the follow up action and then undertake the closure of the Adult Protection Investigation on Liquid Logic. The My Life My review should then be scheduled to be undertaken within 3 months. The full process for this stage on Liquid Logic is available within the ASP Liquid Logic Procedure.

Step 10 Review arrangements following conclusion of Adult Support and Protection Procedures

7.26 My Life My Plan/My Life My Review

Following an Adult Protection initial or review case conference where the outcome has been there will be no further action under Adult Protection Legislation, it is important to ensure that where the adult receives social work services, this decision is subject to further review using a current My Life, My Review Template. Where ongoing risk of harm is identified, arrangements for the assessment and management of those risks should be explicit in any support plan or anticipatory care plan.

Where it is identified within the review that further harm has occurred or risk can no longer be managed under the aforementioned My Life, My Plan Assessment Framework then Adult Protection Procedures should be initiated, in line with existing procedures and a new adult protection referral should be completed.

8. Large Scale Investigation

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

8.1 West of Scotland Adult Support and Protection Network Large Scale Investigation Guidance

This guidance has been endorsed and approved for use by the East Ayrshire Adult Protection Committee and as such is accepted as superceding the Pan Ayrshire Large Scale Investigation Guidance: November 2014. Arrangements are currently in place to produce an Ayrshire version and an East Ayrshire Standard Operating Procedure. The current [Large Scale Investigation Pathway](#) should be followed as an interim arrangement in conjunction with this [guidance](#).

It should be noted that where an individual has been reported as an adult at risk this individual situation requires to be fully investigated to ensure the immediate safety of those concerned regardless of the decision to proceed under a Large Scale Investigation.

The criteria for consideration of a Large Scale Investigation can be found in Section 2 of the [West of Scotland Adult Support and Protection Network Large Scale Investigation Guidance 2023](#)

It should be noted that consideration does not mean that an LSI is required just because the criteria are present. Just as with individual inquiries, this stage should include the initial analysis of adult protection risk which can require a varied response dependent on the setting and potential risk identified.

8.2 East Ayrshire Large Scale Investigation

In East Ayrshire a Large Scale Investigation Process **must** be initiated when there are 3 Adult Protection Referrals or 3 Adult Concerns that have been escalated to Adult Protection relating to separate incidents received within a 3 month period from the same Care Home, Care at Home or any support provider.

8.3 Large Scale Investigation Escalation and Care Inspectorate Notification

Definition: For the purposes of this procedure where a Large Scale Inquiry Meeting decides the circumstances are of sufficient seriousness to progress to an Investigation the responsible **LSI Lead Officer** will inform the Chief Social Work Officer and relevant Head of Service and also ensure;

- [Complete notification of commencement and completion form](#) which should be made available for elected members and relevant Senior/Chief Officers following advising the CSWO and relevant Head(s) of Service upon commencement of LSI Investigation
- Notify the Care Inspectorate via the Large Scale Investigation [Commenced e Notification system](#) ensuring the completed form is provided to protection Admin as a supplementary report
- Inform the Corporate Communications Manager to identify a lead to assist with a communication strategy including if asked for media statement
- Draft Initial Impact Statement and initiate Investigation process
- Conclude Investigation ensuring LSI Chair reports outcome to Chief Social Work Officer using the [Complete notification of commencement and completion form](#) with final minute ensuring arrangements to lead, monitor and report progress of any service improvements are explicit in the minute.
- A briefing is made available for elected members and relevant Senior/Chief Officers, following advising the CSWO and relevant Head(s) of Service upon completion of an LSI Investigation.
- Notify the Care Inspectorate via the Large Scale Investigation [Concluded e Notification](#) once the process has ended and Chief Officers notified.
- Complete a [Learning Together from LSI Template](#) and send to HSCPASP@east-ayrshire.gov.uk for addition to the Intranet.

9. Cross Boundary Working (Scotland)

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

The Team Manager 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 agreed that may be required by either the funding or host authority.

The Service Manager who is Chair of any Adult Protection Case Conference would be expected to ensure an open dialogue with the other Local Authority lead manager to ensure they are kept informed and invited to participate in meetings and therefore decisions about any change of lead roles/responsibilities for coordination and oversight at any stage of the adult protection process.

9.1 Transfer of Information when an Adult at Risk moves to another local authority

[The Social Work Scotland Adult Support and Protection Cross Boundary Cases Best Practice Principles](#) have been endorsed as the standard of practice for the East Ayrshire Health and Social Care Partnership Social Workers.

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

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

An Adult Protection Cross Boundary Transfer Case Conference involving relevant agencies should be convened within two working days to share information and agree any further action required.

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

who should assume responsibility should be escalated to the relevant Service Manager for resolution.

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

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

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

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

This statement remains relevant and would apply equally to all individuals who remain an adult at risk of harm.

The relevant Service Manager should convene an Adult Protection Cross Boundary Transfer Case Conference within **15 working days** of the adult's move to the new area involving appropriate attendance from relevant agencies from both originating and receiving areas. It may be appropriate for the conference to take place prior to the adult moving if this is practicable.

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

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

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

9.2 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 East Ayrshire, the Team Manager should communicate our expectation to the originating authority that:

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

Practice Note 20: Cross Boundary Working UK

There have been situations where an adult who has been subject to an Order under the UK Court of Protection is being supported to move to East Ayrshire. In order to ensure the same standard of practice is applied in these situations the procedure as detailed in Section 11.2 must be followed.

10. Quality Assurance, Governance and Performance Management

It is expected that all agencies working with adults at risk assure the quality of the work undertaken by their agency and jointly with others. This procedure will be used by Social Work to set the standard and to monitor the quality and effectiveness of work undertaken to protect adults at risk of harm.

10.1 Action to be taken

Managers must ensure that no open case which includes allegations of harm to an adult at risk is closed until the following steps have been taken:

- The adult at risk has been spoken to alone
- The adult at risk's accommodation has been seen
- The views of relevant professionals have been sought and considered
- There is evidence that the adult at risk's welfare will be safeguarded and promoted should the case be closed
- The adult at risk and all other interested parties are aware of how to re-refer if necessary
- The adult has been offered appropriate supports, for example, advocacy
- The adult's Liquid Logic record is up to date and complete and records why no further intervention is required.

10.2 Where concern is raised by another agency re handling of adult at risk case

Where concerns have been received by another agency about the handling of an adult at risk case, the Senior Manager should ensure that the file is reviewed and that the professional concerned is spoken to with a record of the discussion being recorded in the adult's Liquid Logic record including any associated actions required to implement improvements or any other actions identified in relation to competency

10.3 Case Conferences, Review Meetings, Core Groups and Discussions

The Service Manager should ensure that all Case Conferences, Review Meetings, Core Groups and discussions concerning the adult at risk involve the following basic steps:

- A list of action points must be drawn up with an agreed timescale and the identity of the person responsible
- A clear record of the discussion must be circulated to all those invited, whether or not they were present, and to all those with responsibility for an action point unless the Chair states otherwise (cross refer to Practice Note 17)
- A mechanism for reviewing the completion of the agreed actions must be specified, together with the date upon which the first review should take place
- The setting out of any supplementary actions that may be required as a contingency in the event of a breakdown in care arrangements or other changes in circumstances.

10.4 Performance Management

The Adult Protection Committee will develop, maintain and review a framework for the inspection of case files, records (including supervision notes), and Case Conference minutes. The framework should also include audits of practice, supervision and monitoring of performance information.

At a strategic level the East Ayrshire Adult Protection Committee has made a commitment to self-evaluation of multi-agency operational delivery of Adult Support and Protection activity ensuring adults at risk are safer as a result of our activity. An audit is undertaken by the Protection and Learning Team on a annual basis and includes multi agency participation from:

Police Scotland;
 Scottish Fire and Rescue;
 NHS Ayrshire and Arran;
 East Ayrshire Council;
 Any other Service/Agency as required dependent on audit remit.

The East Ayrshire Health and Social Care Partnership: Community Health and Care Services are developing a performance monitoring framework for Adult Support and Protection activity to assure the Adult Protection Committee and Chief Social Work Officer of a consistent approach to the monitoring and scrutiny of Adult Support and Protection performance across the partnership. This framework includes audits of practice, supervision and monitoring of performance information.

11. Learning Review Procedures Interface

The Significant Case Review Process was replaced in June 2022 by an overarching Learning Review process which has been aligned where possible with the national Child Protection Learning Review Guidance to foster a consistency of approach for children and adults.

A Learning Review should be seen in the context of a culture of continuous improvement and will focus on learning and reflection around day to day practice, and the systems within which the practice operates. It is a means for public bodies and those with responsibilities relating to the protection of adults at risk of harm to learn lessons from considering the circumstances where an adult at risk of harm has died or been significantly harmed. A Learning Review **is not** an investigation or a way of dealing with complaints. **It is** an inclusive approach, supportive of staff, proportionate to the circumstances and flexible to ensure effective learning. Issues that may arise relating to staff competence or malpractice will be passed to the relevant organisation /agency to progress as part of their usual arrangements for this.

Practice Note 21: Management Responsibilities

The Adult Protection Committee has overall responsibility for decision making around whether any case notified meets the Learning Review criteria and any decisions around conducting such reviews.

All Senior Managers from all agencies who are managing and overseeing scrutiny processes as detailed in section 13.1 below should ensure they are familiar with and follow the [Adult Support and Protection: Learning Review Guidance](#) in order to identify where these should be notified to The APC for independent consideration.

The reporting Senior Manager will require to be assured that any actions to address the immediate concerns about the safety of any adult (s) affected by the situation or incident being considered are in place. The operational responsibility for this action being taken and overseen is the relevant Team manager and Service Manager. The concerns and actions must be recorded on any ASP Learning Review Notification [LR1](#) in the appropriate section.

11.1 Initiation of a Learning Review

The East Ayrshire Adult Protection Committee (EAAPC) has a clear responsibility to ensure those responsible for Learning Reviews adopt a proportionate, consistent, transparent and structured approach. This approach is one that ensures it addresses the needs of many different people and agencies who may have an interest in the process and outcomes. As such, the EAAPC and all Ayrshire Committees' have agreed the [Adult Support and Protection: Learning Review Guidance](#) for local use which supersedes the Scottish Government – Interim National Framework for Adult Protection Committee's for Conducting a Significant Case Review as the overarching guidance and process. The Learning Review Guidance now also supersedes the Pan Ayrshire Guidance for Conducting a Significant Case Review in Relation to Adult Support and Protection. Discussions are underway across the three APC's and CPC's as to any further local operational procedures, process and learning and development needs.

All Public Bodies and organisations will be expected to have their own internal mechanisms for the reporting of a [Significant Occurrence](#), Adverse Event, Critical Incident or Near Miss. In East Ayrshire it has been agreed that an outcome decision of a Social Work Significant Occurrence or Adverse Event Review Group discussion can be a request for a Learning Review. The relevant Head of Service will be responsible for endorsing this decision and ensuring the allocated Senior Manager (who **must** be the designated Learning Review Operational Lead) actions any such requests.

The Learning Review Operational Lead will ensure the APC Chair is appraised of any relevant parallel investigative or scrutiny process, the lead for this and current contact details. Examples of this which are not exhaustive may be;

- Cross Boundary Working with other Local Authorities
- Duty of Candour notifications
- SSSC or other professional bodies fitness to practice investigations
- EAC/HSCP Complaints
- Internal Discipline and Grievance procedures
- Care Inspectorate Regulatory or Complaints Investigations
- NHS Significant Adverse Reviews (SAER)
- Health Improvement Scotland- (HIS) Investigations

- Scottish Fire and Rescue Joint fire investigations with Police Scotland
- Police Scotland Criminal Investigations or Sudden Death Inquiries or action by the Crown Office Procurator Fiscal Service (COPFS)
- Health and Safety Executive Investigations
- Mental Welfare Commission or
- Office of the Public Guardian Investigations.

This information alongside any known contact name and information must be provided on the Learning Review Notification Form LR1 as part of the reporting arrangements detailed below.

11.2 Learning Review Notification to Adult Protection Committee (APC)

Families are not able to request Learning Reviews, they have access to complaints procedures if they feel dissatisfied with aspects of how cases have been dealt with. Any agency (inclusive of Social Work) with an interest in an adult's wellbeing or safety can raise a concern about a case which is believed to meet the criteria for a Learning Review by notifying the APC to initiate such a review.

Requests are made by completing LR1 Learning Review Notification form which should be emailed to HSCPASP@east-ayrshire.gov.uk by the learning Review Lead Senior Manager, following approval by their Head of Service in discussion with the Chief Social Work Officer.

Once received the Protection and Learning Team will notify the APC Chair and the ASP Lead Officer will establish with the Operational Learning Review Lead Senior Manager the current position of any identified parallel investigations or processes as referred to in section 13.1 above. They will then appraise the APC Chair who will contact the relevant organisational lead to consider whether the Learning Review process can proceed without interfering with or contaminating any other current investigatory action at this stage. This may require an Initial Planning Meeting which can be virtual or face to face.

The APC Chair as lead with oversight of Learning Review activity will ensure arrangements for maintaining close dialogue where appropriate are in place and ensure this informs decisions at each stage of the Learning Review decision making process.

If the Learning Review process can proceed as approved by the APC Chair and relevant Senior Officers leading the Learning Review, the Protection and Learning ASP Lead Officer will arrange through Protection and Learning Team Admin for the

dissemination of Form LR2 Request for Further information for relevant agencies who have involvement to complete and return.

The APC Chair will make arrangements for an initial Learning Review Panel meeting of relevant Senior Managers to consider the LR 2 information in order to inform their decision to recommend a Learning Review or not. This decision will require to be ratified by a Special Meeting of the Chief Officers Group (Child, Adult and Public Protection).

Further arrangements for local operation of the Learning Review process on an Ayrshire and East Ayrshire basis are currently underway between both the Child and Adult Protection Chairs and Lead Officers at the time of this guidance.

11.3 Care Inspectorate Notification of Learning Reviews

The Care Inspectorate is now the central repository for all Initial Case Review (ICR) and Significant Case Review reports (SCR) for adults and as such have received submissions of all ICR and SCR reports that commenced on or after 5th November 2019. Learning Reviews will be notified in this way and the system has in built prompts and guidance to support completion. The online notifications can be accessed via:

<https://www.careinspectorate.com/index.php/notifications>

The Protection and Learning Team ASP Lead Officer for the East Ayrshire Adult Protection Committee will attend any Learning Review Meeting and will be the single point of contact and responsible for ensuring Notifications, Learning Review Reports are submitted to the Care Inspectorate following approval sought via Special Chief Officer Group (Child, Adult and Public Protection) governance arrangements.

Practice Note 22: Duty of Candour in relation to a Learning Review

When the Adult Protection Committee are conducting a Learning Review, further consideration should be given, based on the outcome of the incident and with reference to the criteria in the Act, as to whether the Duty of Candour procedure should be activated if this has not been escalated previously. The decision about whether or not to proceed should be included in the record of the relevant meeting. If the decision is to proceed with Duty of Candour processes then a SBAR should be produced and submitted for inclusion to the next scheduled Adverse Events Review Group (AERG) by the appropriate Health or Social Care Service Manager in order to obtain the opinion of a Registered Health Professional.

12. General Data Protection Regulations (GDPR)

12.1 Sharing of Investigative Information

Best practice would always ensure wherever possible that the adult is able to consent to the sharing of information and has the opportunity to be provided with all available information from the investigation. Council Officers should have recorded the adults views on sharing information with any third parties and, if safe to do so, have made arrangements to discuss the content of any inquiries and/or investigative reports with the adult and if requested, their independent advocate.

There have been occasions when Social Workers have received requests from an adult at risk, or third parties such as families and/or carers for copies of investigative reports. Any such requests would be dealt with through the current subject access requests of East Ayrshire Council and would be released subject to any exemptions that may apply for example, any third party information redactions.

Social Work do not have to comply with requests where sharing would seriously affect the adult or any other parties physical or mental health which we would have to evidence in our records.

The following should guide staff in their responses although it is expected all staff will be familiar with the current Information Sharing Guidelines:

- **Releasing information to family members or third parties who have no permission from the adult** – if the adult has not given permission for sharing or there is no legal basis for access then there is no right of those person(s) to request access to information on the adult.
- **Local Authority Welfare Guardian releasing information to family members or third parties** – if the adult is unable to give informed consent the Local Authority Guardian could consider consenting to the provision of information following the same procedures as if it was the adult making the request. The Guardian must ensure their decision is based on full consideration of the purpose of the request and give due diligence to the legislative principles of what the known or reasonably known past and present wishes of the adult. The Guardian responding to and agreeing to any such request must be clear and seek approval of their Team Manager before providing the information. They are then able to seek further advice and

guidance from Service Managers, Legal Services or Information Governance Officers should they require this.

- **Requests from agencies such as health or providers such as care at home and/or care home to be provided with information.** The Council Officer or Inquiring Officer will ensure any information required to ensure the safety of the adult and for provision of care is provided in line with current care planning arrangements. It may be appropriate for care providers to attend Case Conferences and/or receive full copies of meeting minutes and/or protection plans however this should not be automatically assumed that it would be appropriate in all circumstances to share full details of information. The worker responding to any request must be clear and seek approval from their Team Manager before providing information or from the Case Conference Chair if access relates to a minute or a protection plan.
- **Releasing information to third parties who have a legal order** for example Power of Attorney or Guardian(s) must only be undertaken once the Council Officer or Inquiring Officer is satisfied the requested has the right of legal access through robust checking of the legal documents that those requesting access would be obliged to provide prior to any request being made.

Any decision not to share as well as any information shared should be documented on Liquid Logic and copies of correspondence attached.

Practice Note 23: ASP Records Information sharing and access requests

All requests for access to information will be recorded and will be dealt with on a case by case basis taking full account of the individual circumstances and will include:

- Who is making the request and why
- What information they require
- How it will be used

If following a verbal discussion an adult requests a copy of the full inquiry or investigation report the Council Officer, with approval from their Team Manager could consider provision of a letter confirming proportionate key information such as whether harm substantiated or not and a brief summary of key points that would not have any third party or information that would be exempt.

If the adult is not satisfied with this Council Officer will advise them they will require to make a formal subject access request and provide them with information and necessary support to facilitate this. This will ensure all necessary redactions of exempt information including that from third parties is made and conducted in line with expected procedures for data protection and reduce the risk of any breach occurring.

12.2 Retention of Investigative Information

Any Investigation records should be held in the ASP Episode for the individual involved and retained in line with [Corporate Records Retention Policy](#) 3.3.1 – **75 years from closure of ASP Episode.**

13. Reviewing these Procedures

The EAAPC have a priority outcome of early intervention and as such ensures up to date policies, procedures and practice that are good for people at risk of harm are in place.

With this outcome in mind this Procedure has been produced by the East Ayrshire Public Protection and Learning Team with the Adult Protection Lead Officer having lead responsibility for initiating review arrangements. The procedures have been approved and/or endorsed for use by:

- East Ayrshire Health and Social Care Partnership Management Team
- Social Work Leadership Forum
- East Ayrshire Health and Social Care Partnership Staff Guidance – Policy, Legislation and Procedure Steering Group
- East Ayrshire Adult Protection Committee
- East Ayrshire Chief Officers Group (Child, Adult and Public Protection)

This Procedure updates the East Ayrshire Health and Social Care Partnership: Adult Support and Protection Social Work Operational Procedure November 2020 – copies of which should be destroyed and superseded Practice Briefing Notes 10 and 13.

In order to ensure these current procedures remain fit for purpose we will be happy to receive any feedback at any time please direct any comments/suggestions for improvement to HSCPASP@east-ayrshire.gov.uk

This will allow us to make any significant amendments or update our Frequently Asked Questions section of our website.

Should any of the contents of this document be reproduced for use or reference by any other party, East Ayrshire Protection and Learning Team should be acknowledged as the source.

REFLECTIVE SUPERVISION TOOL for Adult Support and Protection/Risk Cases

Worker		Date	
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Consider	Yes/No	Comment/Action Required
Is anything hindering the adult from participating in decision making?		
Is there conflict between what the adult/carers/professionals want to do/happen?		
Have all less restrictive options been considered?		
Are there any information sharing issues with partners?		
Do you feel there is any conflict of interest for you in this case? (For example if you are supporting more than one person in the same family)		
Will/did the protective interventions:		
- Reduce the risk of harm?		
- Reduce the impact of illness or disability?		

Consider	Yes/No	Comment/Action Required
- Enhance ability to safeguard?		
Is the adult being supported to recover from harm?		
Has anything happened to increase/reduce the risks?		
Are case records up to date?		
Has a review taken place when it should?		
Has any aspect of the case made you uncomfortable?		
What is/has worked well in this case?		
What would you do differently?		
What would you suggest to partners they do differently?		