

Grampian

Interagency Policy and Procedure for the Support and Protection of Adults at Risk of Harm



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First Issue : April 2006
Review Date : September 2010

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Section One – Setting the Scene

1.1 Foreword

Most adults with mental health problems, physical or learning disabilities or other needs, manage to live their lives comfortably and securely, either independently or with assistance from caring relatives, friends, neighbours, professionals or volunteers. However, for a small number, dependence on someone may produce conflict, exploitation and harm.

This Policy and Procedure was initially produced in response to the growing awareness and documentation of the range, level and frequency of harm towards adults. It was developed by The Grampian Adult Protection Working Group to provide a framework to enable appropriate recognition and response to situations where adults may be at risk of harm.

The Policy and Procedure was reviewed and revised in October 2008, by the Grampian Adult Support and Protection Working Group, to take account of the Adult Support and Protection (Scotland) Act 2007 (referred to throughout this document as 'the Act') and its associated Code of Practice.

Partners

- NHS Grampian
- Aberdeen City Council
- Aberdeenshire Council
- Moray Council
- Care Commission
- Grampian Police
- Voluntary Sector

Consultation and Comments

Members of the above partner organisations, voluntary organisations, private sector and other organisations were consulted with regard to the contents of this document. It will continue to be reviewed and amended in line with changing legislation and working experience. Any comments regarding this document should be made using the form provided. (Section 9.13)

1.2 Introduction

All citizens, organisations and agencies have a responsibility to participate in the protection of adults from risk of harm (referred to throughout the document as 'the adult'). This means they have a duty to report any concerns to the appropriate authority.

Protecting adults from harm is a high priority for the Scottish Government. The key to ensuring individuals are appropriately supported and protected lies with the empowerment of the individual and his/her carers, a knowledge of what can be expected, an understanding of their rights and access to a responsive complaints and advocacy service. Of equal importance is the ongoing implementation of the National Care Standards, sound

recruitment practices and the provision of appropriate training for those involved in the support and protection of the adult. This will ensure that they are trained, supported and enabled to work together, to create a positive and empowering ethos.

The Adults with Incapacity (Scotland) Act 2000, Mental Health (Care and Treatment) (Scotland) Act 2003, and Adult Support and Protection (Scotland) Act 2007 introduced duties and provide a range of guidance relating to the protection of the adult.

There are many complexities in supporting and protecting adults at risk of harm. Whilst acknowledging that this policy and procedures cannot cover all eventualities, it is intended to be used by all, whether in a professional or a voluntary capacity.

1.3 Principles of Practice in Supporting and Protecting Adults from Harm

Agencies should adhere to the following guiding principles:

- Work within the principles laid down by the Act and its associated code of practice.
- Work within the principles laid down by the National Care Standards i.e. dignity, privacy, choice, safety, realising potential, quality and diversity.
- Work together within an interagency framework.
- Promote the empowerment and well-being of adults through the services/support they provide.
- Act in a way which supports the rights of the individual to lead an independent life, based on self-determination and informed choice.
- Identify people who are unable to take their own informed decisions and/or to protect themselves and their assets.
- Recognise that the right to self-determination can involve risk but that this should be minimised whenever possible and where necessary, through the use of a risk management process.
- Ensure that when the right to an independent lifestyle and choice is at risk, the individual concerned receives appropriate help, including advice, protection and support from relevant agencies e.g. independent advocacy.
- Ensure that the law and statutory requirements are known by Agencies and used appropriately, so that adults receive the protection of the law and access to the judicial process.

Section Two – What is Harm?

2.1 Definitions

What is Harm?

Harm is an emotive term and can be subject to wide interpretation. Within the Act Harm is defined as including all harmful conduct and in particular:

- conduct which causes physical harm (including that of a sexual nature).
- conduct which causes psychological harm (for example by causing fear, alarm or distress).
- unlawful conduct which appropriates or adversely affects property, rights or interests (for example, theft, fraud, embezzlement or extortion).
- conduct which causes self-harm.
- can occur in institutions, in the home, or in the community.
- may involve elements of a power imbalance, exploitation and the absence of full consent.
- involves acts of omission and commission.
- can be the result of neglect (by self or others).

Who is at risk?

The Act defines an 'adult at risk' as a person aged 16 years or over who:

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

The presence of a particular condition does not automatically mean an adult is an 'adult at risk'. An adult can have a disability but be able to safeguard their well-being etc.

It is important to stress that all three elements of this definition must be met. It is the whole of an adult's particular circumstances which can combine to make them more vulnerable to harm than others.

An adult is at risk of harm if:

- another person's conduct is causing (or is likely to cause) the adult to be harmed, or
- she/he is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

Who may cause harm?

The adult may be harmed by a wide range of people, including professional staff, Care Workers, volunteers, other service users, neighbours, relatives, friends and strangers.

Of particular concern are incidents when harm is perpetrated by someone in a position of power or authority, who uses his or her position to the detriment of the health, safety, welfare and general well-being of the adult.

Agencies have a responsibility to all adults who have suffered or who are at risk of harm. They may also have responsibilities towards agencies/people with whom the perpetrator is employed or works as a volunteer. The roles, powers and duties of the various agencies, in relation to the perpetrator, will vary depending on whether the latter is:

- a member of staff, proprietor or service manager.
- a member of a recognised professional group.
- a Care Worker.
- a volunteer or member of a community group such as a place of worship or social club.
- a service user.
- a spouse, relative or member of the person's social network.
- a carer.
- a neighbour, member of the public or stranger.
- a person who deliberately targets vulnerable people in order to exploit them.

2.2 Patterns of Harm

Any or all of the following types of harm may be perpetrated as the result of criminal action, deliberate intent, negligence or ignorance and may be current or historical in nature. These definitions are not exhaustive and no category or type of harm is excluded because it is not listed below. What constitutes serious harm will be different for different adults.

- Physical Harm - including hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions, force-feeding, burning or scalding.
- Sexual Harm - including inappropriate touching or sexual advances, rape and sexual assault or sexual acts to which the adult has not consented, could not consent or was pressured into consenting to. (Section 9.1, Glossary of Terms – Sexuality Policy)
- Psychological Harm - including emotional harm, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse (including sexualised language) or isolation or withdrawal from services or supportive networks.
- Financial or Material Harm - including theft, fraud, exploitation, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- Neglect and Acts of Omission - including ignoring medical or physical care needs, failure to allow access to essential health, social care or educational services, withholding of the necessities of life such as medication, adequate nutrition and heating, or over/under-medicating.

- Discriminatory Harm - actions (or omissions) and/or remarks of a prejudicial nature, focusing on a person's age, gender, disability, race, colour, sexual or religious orientation.
- Information Abuse - e.g. failure to adhere to the relevant 'Data Protection Act' guidance, failure to provide adequate and appropriate information about Complaints/Customer Services procedures, which inhibits a person raising a concern about harm or failure to give an adult whom you are caring for the right information e.g. benefit entitlement/claims.

In terms of the Act, a Sheriff must be satisfied that the adult is at risk of serious harm before they will grant a protection Order.

2.3 Signs of Potential Harm

Suspicious of harm can come to light in a number of ways.

The clearest indicator is a statement or comment by the adult themselves, by their regular carer, or by others, disclosing or suggesting harm.

Such statements invariably warrant further action, whether they relate to:

- a specific incident or
- a pattern of events

There are, of course, many other factors which may indicate harm and could include:

- unusual, suspicious or repeated injuries.
- unusual or unexplained behaviour of carers, including a delay in seeking advice or dubious or inconsistent explanations of injuries or bruises.
- an adult found alone, at home or in a care setting, in a situation of serious, avoidable risk.
- over-frequent or inappropriate contact/referral to outside agencies.
- a prolonged interval between illness/injury and presentation for medical care.
- where the adult lives with another member of the household, who is known to the Police or Community Care agencies in circumstances which suggest possible risk to the life/health or well-being of that adult.
- signs of misuse of medication :
 - a) not administered as prescribed.
 - b) over-medication resulting in apathy, drowsiness, slurring of speech, unusual sleep patterns, continual pain etc.
 - c) under-medication resulting in unusual sleep patterns, continual pain etc.
- unexplained physical deterioration, e.g. loss of weight.
- sudden increases in confusion, e.g. a toxic confusional state could be as a result of dehydration.
- demonstration of fear by the adult of another person or place.
- difficulty in interviewing the adult, e.g. another person unreasonably insists on being present.
- anxious or disturbed behaviour on the part of the adult.
- hostile or rejecting behaviour by the carer towards the adult.
- serious or persistent failure to meet the needs of the adult.

- signs of financial harm e.g. change in the ability of the adult to pay for services/access services, unexplained debts or reduction in assets.
- carers and/or dependants showing apathy, depression, withdrawal, hopelessness and/or suspicion.
- unnecessary delay in staff responses to residents' requests.
- a member of staff in a care setting having a history of moving jobs without notice, or having inadequate references.
- important documents reported as missing.
- inappropriate or unusual pressure being exerted by family or professionals, to have someone admitted to care or to remain at home.
- grooming – where a person targets an adult with a view to schooling, priming or training that adult in preparation to engage in sexual activity.
- inadequate completion of daily recording forms/incident forms in relation to unexplained incidents by Care Workers (record keeping).
- new, unexplained physical symptoms.
- changes in behaviour from the usual pattern, e.g. someone who previously enjoyed an activity refusing to go, or reluctance of staff to accept change in rota/role.

Section Three – Procedures

3.1 What To Do If Harm Is Suspected

Where an adult is at risk of harm the facts and circumstances of the case must be reported to the council for the area where they believe the adult to be located. The Out of Hours Social Work Service should be used if appropriate.

If the adult is known or believed to be at risk and there is a need for immediate action to safeguard the adult, consideration should be given to contacting the emergency services.

The council must engage with agencies in early discussions/assessments and information sharing to establish whether or not there are grounds or a need to initiate a formal adult protection investigation.

The council has a duty to investigate an alleged incident of harm and will provide advice and support. Other professionals may be involved for example: police; Care Commission; etc. and must cooperate fully.

The process and timescales of the investigation can be seen in the flowchart (section 9.2, Adult Protection Flow Chart and Notes).

3.2 Information Sharing and Consent

The need to share information regarding the adult is vital, what one person or public body may know may only be part of a more concerning picture. In the Act certain bodies and office holders have a duty to co-operate with a council which is making inquiries regarding the adult. Good practice would be that all relevant stakeholders would co-operate with assisting inquiries, not only those who have a duty to do so under the Act.

The adult's consent to share information should be obtained wherever possible, but existing law allows information to be disclosed without consent, where such disclosure is required by law or where such disclosure is in the public interest. With regard to the public interest, disclosures must be proportionate to the harm that is being investigated.

It may not be possible to obtain consent where:

- the adult lacks the mental capacity to consent.
- the adult is unwilling to consent because of undue pressure.
- the person acting with powers is unavailable or unwilling to give consent; or
- the situation is so urgent that obtaining consent would cause undue delay.

Whilst confidentiality is important, it is not an absolute right. Co-operation in sharing information is necessary to enable the council to undertake the required inquiries and investigations. Information should only be shared with those who need to know and only if it is relevant to the particular concern identified. The amount of information shared should be proportionate to addressing the concern.

In general, agencies and professionals should:

- explain openly and honestly at the outset what information will or could be shared and why, and seek agreement.
- stress that the adult's safety and welfare must be the overriding consideration when making decisions about whether to share information.
- respect the wishes of adults who do not consent to share confidential information – unless in your judgement there is sufficient need to override the lack of consent
- seek advice when in doubt.
- ensure information is accurate, up to date, and necessary for the purpose you are sharing it, share only with those who need to see it, and share securely.
- always record the reason for your decision – whether it is to share or not.
- if decision is made to share information without consent the Information Sharing Without Consent Form should be completed (section 9.1, Glossary of Terms).

3.3 Cross Boundary Working

If more than one Council is involved with an adult, due to the adult residing in a different geographical location from the location which is their home address, steps need to be taken to ensure that one Council leads any investigation but that relevant professionals from the other Council are informed and their views are considered. In Grampian it is considered good practice that the Council where the adult is currently resident should lead any investigation.

3.4 Children in Transition

In Scotland an individual becomes an adult when they reach 16 years of age.

Where a concern is noted about an adult who is 16 years or over, the concern must be reported to the appropriate adult council service (section 9.12, Useful contact numbers).

The council is then responsible for ensuring appropriate checks are carried out on CareFirst to establish if other Social Work Services are involved.

If the adult is between 16 and 24 years of age, agreement must be reached between Adult and Childcare Services as to which service will conduct any necessary inquiries.

If the adult is between 16 and 18 years of age and has been subject to previous Child Protection investigations it is likely that Childcare Services may wish to investigate the current concerns.

For adults between 18 and 24 years of age with previous social work involvement, e.g. Childcare, Throughcare and Aftercare, Adult Services are most likely to carry out the investigation but should follow any advice provided by professionals previously involved.

The outcome of any decisions and/or investigations must be clearly recorded and consideration given to the implications of any concerns relating to younger siblings.

3.5 Recording Information

Each organisation must have a formal agreement with regard to how information about the adult is recorded. This must be adhered to, with records being kept up-to-date and accurate at all times.

All information recorded should be based on information, known to be factually accurate by the worker or based on information reported to them.

Information regarding concerns should include:

- Nature/substance of concerns.
- Details of care giver/significant others.
- Details of person alleged to have caused harm including current whereabouts and likely contact with the service user over the next 24 hours if known.
- Details of any specific incidents, e.g. dates, times, injuries, witnesses and evidence, such as bruising/marks (these should be recorded on a body chart).
- Background or any previous concerns.
- Awareness/consent (or not) of the person concerned, carers, person alleged to have caused harm of the Adult Protection referral.
- Information given to the person, expectations and present and past wishes of the person, if known.
- The outcome of any/all investigations.

Clearly indicate what information is known to be factual and what has been reported/observed etc.

Incidents of concern, suspected/actual harm must be reported centrally, within each Council area, using the locally agreed system. This will ensure that, wherever possible, no incidents of harm are missed. All incidents will be recorded on an Adult Protection Reporting form (Section 9.6, Reporting Form).

It should be noted that when sharing information, the relevant Information Sharing Protocols (including General Protocol for the Sharing of Information in relation to Adult Services and the Information Sharing Without Consent Protocol) must be adhered to. (Section 9.1, Glossary of Terms).

3.6 Advocacy

The Act places a duty on councils to consider the provision of appropriate services to an adult. This includes independent advocacy services,

Independent advocacy supports people:

- to express their own needs;
- to gain access to information;
- to explore and understand the options available;
- to make informed decisions.

3.7 Communication Support

Supporting adults to make their views and wishes known may require:

- assistance or materials appropriate to their needs;
- the adult's preferred format for communication such as large print, audio tape, Braille or computer disc;
- technical aids to support communication or information;
- material which is interpreted, translated or adapted;
- 'human aids to communication' such as British Sign Language interpreters, lip speakers, Makaton, and deaf-blind communicators;
- consideration given to the surrounding environment, e.g. noise levels, provision of loop systems or lighting.

3.8 Staff Debriefing

Working in the field of Adult Protection can be very rewarding, but can also be very challenging and demanding. Some of the more complex investigations and inquiries can be particularly difficult and may take a toll on members of staff who are involved. For this reason it is essential that all agencies adhere to relevant Human Resources policies to make sure that staff are fully debriefed and offered appropriate support.

Section 4 – Procedures under the Adult Support and Protection Act

4.1 Investigations

The Act allows councils to undertake a range of interventions in relation to the adult. They are:

- Initial Inquires/Referral Discussion.
- Visits.
- Interviews.
- Medical Examinations.
- Examination of records.
- Application to a Sheriff for a Protection Order.

Before undertaking any investigation, a determination of the adult's capacity should be reached by the appropriate professional/s (Section 7.3, Adults with Incapacity) and recorded.

It is impossible to detail all the steps which should be undertaken in the investigation of an alleged incident of harm, due to the varying nature of such allegations. The following overarching principles should be adhered to:

- It is essential that the professional, who is tasked with carrying out the investigation into an alleged incident of harm, has undergone specific training in investigating allegations.
- All interviews should be carried out by two professionals from a statutory agency. This can consist of Social Work/NHS/Care Commission/Police. It may be necessary to include a member of support staff who knows the adult well and/or an Appropriate Adult if it is a police investigation.
- Those involved in the investigation should always meet beforehand, to discuss how to proceed, ensuring that they are aware of all the facts to date, any background knowledge/information regarding the adult and the person who allegedly perpetrated the harm. This may mean preliminary interviews have to take place with the person who made the allegation, workers of support services etc. Checks should also be made on all available computer records/manual records and with other councils if appropriate.
- The investigation should proceed as sensitively as possible and account should be taken of the adult's wishes. A balanced view between the need to protect the adult and the needs and rights of any individual should be maintained. Care should be taken to keep an open mind and to undertake a balanced and objective assessment.
- As part of the investigation, the adult's home environment and/or the environment where the alleged harm took place should be visited, where relevant, and a professional assessment as to its suitability made. In visiting these settings, care should be taken about personal safety. (Lone Working Policies should be adhered to, Section 9.1, Glossary of Terms).

- If an allegation of sexual harm has been made and reported to the Police, care should be taken to preserve any forensic evidence. Evidence is anything that proves a crime or offence was perpetrated by a specific person. For example it could be a weapon, clothing, bedding, documentation, injuries, records, etc. Forensic evidence links a perpetrator to a specific crime or offence, but also to a location and can be obtained from forensic examination of a person, a location or other relevant items such as clothing. Where there is a belief that something may constitute a piece of evidence in a case and may be relevant to a police investigation, it should be preserved and kept in a secure location (if relevant) until it can be handed to the police.
- Care should be taken with the venue and timing of the interview with the adult, to ensure he/she is at ease etc. and that all necessary supports are available, e.g. interpreter, computer, loop system and symbols.
- The investigation should not incur any undue delays, taking into account the impact on the adult.
- At the end of all significant investigations, as determined by the Adult Protection Committee, all Agencies involved should be part of a Critical Incident Review/Root Cause Analysis, in order to ensure that best practice has been carried out and any lessons learned taken on board, with regard to Policies and Procedures.
- Staff taking part in an investigation should be offered debriefing by their supervising Manager.

4.2 Initial Inquiries/Initial Referral Discussion

All information should be passed onto the relevant Council. Any report that an adult may be at risk of harm, including anonymous referrals, will be taken seriously. Cases will be considered with an open mind without assuming that harm has, or has not, occurred. All referrals will warrant careful consideration and a measured response. All referrals will be recorded on the Adult Protection Reporting Form by the referring agency or by the council officer where the referrer is a member of the public. (Section 9.6, Reporting Form)

An Initial Referral Discussion will take place between relevant organisations that hold information about the adult or the alleged perpetrator. The gathering of relevant information will enable the Council Officer to determine whether or not grounds exist to initiate a formal investigation or whether a criminal offence is believed to have been committed.

Any intervention that results from an adult protection referral must be both flexible and professional in its approach; it must be person-centred and based on the adult's personal circumstances. For example, some adults may be known to services and it may be helpful for them to have an informal discussion with a familiar person such as a support worker rather than a Council Officer. This opportunity for conversation may give the adult the information they need to enable support to be provided to reduce or prevent the need for statutory intervention. This type of informal discussion may only take place if agreed by the appropriate senior social worker/care manager.

Where initial inquiries indicate a criminal offence has been committed against the adult, this will be reported to the police at the earliest opportunity. The role of the police in

investigating the crime should not be undermined. This does not remove the responsibility of the council to take immediate action to protect the adult at risk but any proposed action needs to be taken in consultation with the police.

The council may decide that no further action may be required. This conclusion would be reached after a range of inquiries have taken place. The inquiry process and the reason for no further action will be recorded fully on the Grampian Adult Protection Record of Inquiry form by the council officer. (Section 9.7, Record of Inquiry Form)

4.3 Visits

Under the Act, a Council Officer may visit any premises with the purpose of assisting a council to:

- decide whether the adult is an adult at risk of harm; and
- establish whether the council needs to take any action in order to protect the adult at risk from harm.

A Council Officer may enter any place to enable or assist an inquiry and they may enter any adjacent place for the same purpose. The Council Officer must show identification and state the purpose of the visit. Prior to entry the Council Officer may also consider the application for a Warrant for Entry.

A Council Officer may be accompanied by another person. A joint visit could assist inquiries by enabling:

- A joint investigation with key worker, Police Officer, Health Professional, Care Commission Officer or member of the Office of the Public Guardian.
- Improved assessment of the risk to the adult; or
- communication with the adult.

The Act permits a Council Officer to enter any place where the adult normally resides such as:

- The adult's own home.
- A home with carers.
- A registered setting such as a care home.

It also permits a council officer to enter premises where the person is residing temporarily or spends part of their time including:

- A day centre.
- A place of education, employment or other activity.
- 'Respite' residential accommodation.
- A hospital or other medical facility.
- Commercial premises.

Visits may only be undertaken at 'reasonable times'. A balance is required between the need for a timeous investigation and fully involving the adult and others. An immediate visit may be needed to assess the risk and, if necessary, take protective action. This may involve multi agency discussion and consideration of likely impact on the adult and any carer.

4.4 Interviews

The Act permits a Council Officer, and any person accompanying the officer, to interview, in private, any adult found in a place being visited. The adults must be told of their right not to answer any questions before the interview starts. The aim of an interview is to establish:-

- if the adult has been subject to harm.
- what is the source, nature and level of any risk to the adult.
- establish if the adult feels his or her safety is at risk and from whom.
- whether any action is needed to protect the adult, and to
- establish what action, if any, the adult wishes or is willing to take to protect him or herself.

Interviews may take place within any place being visited, e.g. the adult's home, a day centre, care home or hospital. The choice of venue will involve a judgement based on the wishes of the adult and should be a location where the adult can participate as fully and freely as possible.

Consideration should also be given to:

- Proactively seeking the consent of the adult to be interviewed.
- Considering the adult's capacity.
- Giving reasonable opportunity and encouragement to answer questions.
- Promoting the adult's participation in the interview.

4.5 Medical Examinations

Under the Act a medical examination should be considered when:

- the adult has a physical injury stated as inflicted by another person;
- where the explanation for injuries is inconsistent with the injuries;
- there may be physical evidence of sexual abuse;
- the adult appears to have been subject to neglect or self-neglect;
- the adult is ill or injured and no treatment has previously been sought.

A medical examination may also be required for other reasons including:

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

A health professional may conduct a medical examination in private. The examination can be carried out during a visit even if an Assessment Order has been granted to enable a medical examination elsewhere. A person must be informed of her/his right to refuse to be examined.

A medical examination:

- includes a physical, psychological or psychiatric assessment or examination;
- can take place at a place being visited; or
- can take place where an adult has been taken under an assessment order.

A health professional is defined as a doctor, a nurse or a midwife.

If the adult lacks capacity or has difficulty in communicating and consent is not possible, the council should contact the Office of the Public Guardian/ Mental Welfare Commission to establish if the adult is known and to consider whether it is appropriate to use powers available within the Adults With Incapacity Act (Scotland) 2000 or the Mental Health (Care & Treatment) (Scotland) Act 2003.

4.6 Examination of Records

A Council Officer may require a person to provide health, financial or other records for inspection by an appropriate professional. This includes records held in audio, visual or other formats. This requirement may be made during a visit or at any other time. Requirements made at any other time must be made in writing.

It is an offence for a person to fail to comply with a requirement to provide information, except with reasonable excuse. The Act does not describe what “reasonable excuse” may be; therefore any decision would be based on the facts and circumstances relating to failure to comply.

Health records are defined as records:

- relating to an individual’s physical or mental health;
- made by or on behalf of a health professional.

Health records may be sought and obtained by a council officer but inspected only by a health professional. The adult’s consent should be obtained wherever practicable and possible. If consent cannot be obtained (e.g. if the situation is urgent and obtaining consent would cause undue delay), the adult should, if possible, be informed about the information sharing retrospectively. If the adult lacks capacity or has difficulty in communicating and consent is not possible the council should contact the Office of the Public Guardian in relation to whether it is appropriate to use powers available within the Adults With Incapacity Act (Scotland) 2000 or the Mental Health (Care & Treatment) (Scotland) Act 2003 if time allows.

4.7 Orders under the Act

Application may only be made for any of the Orders, where the adult is at risk of **serious harm**. Advice and guidance should be sought from the council’s legal advisor. When the adult does not consent to the making of any of the Orders, evidence is required, if applicable, that the adult has been subject to ‘undue pressure’.

Undue pressure can be applied by an individual who may not be the person suspected of actually harming the adult or whom the adult is afraid of, or who is threatening them.

The Act provides an example of what may be considered to be 'undue pressure':

- harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust; **and**
- the adult at risk would consent if they did not have confidence and trust in that person.

4.8 Assessment Order

An Assessment Order allows a Council Officer to conduct an interview in private and/or a health professional to conduct a medical examination in private. This may be required to establish whether the person is an adult at risk and if further action is required to protect them.

The sheriff must be satisfied that the council has reasonable cause to suspect the subject of the order is an adult at risk who is being, or is likely to be, seriously harmed and that:

- the order is required to establish whether the person is an adult at risk who is being, or is likely to be, seriously harmed; and
- the place at which the person is to be interviewed and examined is available and suitable.

An Assessment Order cannot be appealed. There is no need for a court application if assessment can be carried out by agreement. The council should always consider the merit of the application if it considers that the adult will refuse consent to the granting of the Assessment Order, or compliance with it.

The adult can be taken to, but not detained at, a place specified on the Order.

If entry is reasonably expected to be refused the Council Officer may apply to the Sheriff for a Warrant of Entry to be executed by a Police Officer.

4.9 Removal Order

A Removal Order allows the council to remove the adult to a specified place in order to assess the situation and to support and protect them. An adult must only be taken to the place specified on the Order.

The purpose of a Removal Order is primarily for protection and:

- to assess the adult's situation and provide support and protection;
- not primarily for a council interview or a medical examination;
- permits the person named to be moved from any place;
- requires return to own environment as soon as possible.

The Order may only be used for very specific purposes, such as:-

- resolving issues between the adult and person suspected of harming;
- relieving carer stress;
- the prevention of serious harm.

A council application must be based on the following grounds:-

- the adult is likely to be seriously harmed if not moved to another place; and
- there is a suitable place available to remove the adult to.

The council should present evidence that:

- voluntary approaches and/or other legislation have been considered;
- all other options have been explored and exhausted;
- the adult at risk is likely to be seriously harmed if not moved to another place;
- the place proposed is available and suitable;
- the action is in accord with the principles of the Act.

If the adult has capacity to consent and has made known their refusal to consent, the council must prove the adult has been “unduly pressurised”.

A council is required to:

- notify the affected adult in writing of the application;
- inform the adult of their right to be heard or represented;
- be accompanied by a friend, relative or any other representative of choice;
- if appropriate, advise any other interested persons of the application.

An adult must be removed within 72 hours of the order being granted. A Removal Order will expire after 7 days (from the date the adult was removed). A council should request the shortest period possible, ensuring it provides benefit and the least restriction to the adult’s wishes.

An adult cannot be returned home and removed again within the period of this Order. If the adult does not consent, then application may only be made if no steps could reasonably be taken with the adult’s consent. The affected adult can be taken to, but not detained at, the place specified on the Order.

In emergency situations, a council can apply to Justice of the Peace on the basis that:

- the adult is likely to be seriously harmed if not moved to another place; and
- there is a suitable place available to remove the adult to;
- it is not practicable to make application to the sheriff; and
- an adult at risk is likely to be harmed if there is any delay in granting the Order.

Removal can take place within 12 hours of the Protection Order being granted. The Order expires after 24 hours. A council should advise any person with interest in the adult’s welfare of removal. A council officer and constable have the right to enter premises to remove the adult.

The council may nominate another person to move the adult if appropriate. The nominee should be specified in the application.

The council must plan their actions:

- to minimise distress and risk to the adult;

- always on the basis of the principle of "least restrictive alternative",
- to keep the adult fully informed of rights, options, events
- having arranged where the adult is going to be removed to;
- as to how the removal is to be carried out, including transport arrangements and safeguarding of property.

4.10 Banning Orders

A Banning Order may be made by or on behalf of:

- an adult whose well-being or property would be safeguarded by the order; or
- any other person who is entitled to occupy the place concerned;
- a council, in some circumstances.

A Banning Order bans the subject of the Order from being in a specified place for up to 6 months. The "subject" may be a child. An application should only be made by the council if no other steps could reasonably be taken. If the adult has capacity and refuses to consent, the council must prove that the adult has been "*unduly pressurised*" to refuse to consent to the granting of an order.

A Sheriff may grant a Banning Order or Temporary Order only if satisfied that:

- an adult is being, or is likely to be, seriously harmed by another person;
- the adult's well-being or property would be better safeguarded by banning the other person from a place occupied by the adult than it would be by moving the adult from that place; and that either:
- the adult is entitled, or permitted by a third party to occupy the place from which the subject is to be banned; or
- neither the adult nor the subject is entitled, or permitted by a third party to occupy the place from which the subject is to be banned.

An application for a Banning Order must be accompanied by a plan clearly identifying the place and area from which the subject is to be banned.

A Banning Order may:

- ban the subject from a specified area in the vicinity of the specified place;
- authorise ejection of the subject from the place and area;
- prohibit the subject from moving any specified thing from that place;
- direct any specified person to take measures to preserve the moveable property of the subject;
- have specified conditions; and
- require or authorise any person to do, or to refrain from doing, anything else which the sheriff thinks necessary for the proper enforcement of the order.

Application for a Temporary Banning Order may be made where it is inadvisable to wait for a full hearing on a Banning Order application. If the adult is the applicant, it would be good practice for the council to assist with the application. A Temporary Banning Order expires on the date a banning order is made, the date on which it is recalled, or any specified expiry date.

Where the adult is entitled to occupy a place, her/his occupancy rights are not affected if her/his husband, wife, partner etc. is banned from the place. Where the adult is a non-entitled spouse under the Matrimonial Homes (Family Protection) (Scotland) Act 1981, she/he still has rights to occupy the home from which the subject of the Order is banned.

If the adult is not entitled to occupy a place, the Act does not allow a person who is entitled to occupy that place to be banned.

Banning Orders may be used in respect of public places.

A Banning Order will last for:-

- the period will be specified by the sheriff;
- any period up to a maximum of six months;
- the shortest period possible in line with the principles of the Act;

A Banning or Temporary Banning Order may be recalled or varied.

A Sheriff can attach a power of arrest to the Banning or Temporary Order if there is a likelihood of the subject breaching the conditions of the Order. The power of arrest becomes effective only when served on the subject of the Order and will expire at the same time as the Order.

If conditions are breached the subject may be arrested without warrant:

- if a constable reasonably suspects breach of the order; and
- they are likely to breach the order again if not arrested.

The constable cannot simply arrest the subject for having breached the order alone. If no power of arrest is attached to the original Order, application may subsequently be made to the Sheriff to attach a power of arrest.

Section Five – Meetings

5.1 Adult Protection Meetings and Case Conferences

Both Adult Protection Meetings and Case Conferences are held to consider concerns regarding an adult who is thought to be at risk of harm.

They are however, initiated at different points in the process and are triggered by different events.

5.1.1 Adult Protection Meetings

An Adult Protection Meeting is an opportunity for professionals with a statutory responsibility towards an adult, where there are concerns regarding harm or risk of harm, to share those concerns and consider how to respond to them.

An Adult Protection Meeting can be held at any time thought appropriate by the Senior Care Manager/Social Worker, Team Leader or similar professional. An Adult Protection Meeting must be held if it is confirmed that an adult has been the subject of 5 separate incidents of concern.

5.1.2 Case Conferences

A Case Conference is held promptly following an investigation which concludes that there is a perceived risk to an adult who meets the 3 point criteria for Adult Protection. The Case Conference is a multi-disciplinary/agency meeting at which information regarding alleged harm or risk of harm is shared and considered with the intention of safeguarding the adult from further harm.

The adult and their family/carer/guardian may be invited to the Case Conference.

Other meetings may take place alongside the Case Conference, for example disciplinary meetings, but these processes should not be confused.

5.2 Role of Chair

The Council will be responsible for organising the Adult Protection Meeting/Case Conference. The Chair will be a designated employee of either the Council or NHS who:

- Will ensure that the time and venue are arranged and that all relevant people are invited and briefed about the purpose of the Adult Protection Meeting/Case Conference.
- Will ensure that any necessary Risk Assessments have taken place prior to the Adult Protection Meeting/Case Conference.
- Will follow the agenda for the Adult Protection Meeting or Case Conference (as applicable).
- Will ensure that a minute taker is identified and that the minutes are distributed (along with the Adult Support and Protection Care Plan if relevant) within 14 days of the Adult Protection Meeting/Case Conference.

- Will confirm if the adult/family/carer/guardian should receive a copy of the minutes, taking into account the confidentiality and sensitivity of the information contained within them.
- Should ensure that any communication aids/systems (e.g. loop system, computer etc) are made available.

Forms to be used in respect of both Adult Protection Meetings and Case Conferences are contained in this document. (Section 9.9)

5.3 Attendance of Professionals

Adult Protection Meetings and Case Conferences should be attended by professionals who have a direct role in protecting the adult who is the subject of the concerns. These may include:

- Community Care professionals.
- Medical professionals.
- Police Officers.
- Voluntary or private sector staff.
- Residential/housing support or day care staff.
- Members of the Interpretation/Translation Services/Advocacy.
- Legal representatives.
- Mental Health Officer.

5.4 Information Sharing

Confidentiality is required from each participant in Adult Protection Meeting and Case Conferences. This should be made explicit at the beginning of the meeting by the Chair. Information will be shared in line with the General Protocol for the Sharing of Information in relation to Adult Services/Sharing Information Without Consent Protocol.

5.5 Involvement of the Adult/Carers/Family/Guardian

5.5.1 Adult Protection Meetings

As the purpose of an Adult Protection Meeting is to allow professionals to share concerns, the adult/carer/family or guardian are unlikely to be included but agreement should be reached as to what, if any, information is shared with them. This is to avoid unnecessary stress to the adult/carer/family/guardian and the risk of a breakdown in relationships should concerns be unfounded. Should concerns continue to exist following the Adult Protection Meeting, information from the meeting would be presented at a future Case Conference and made available to them.

5.5.2 Case Conferences

The Chair will consider the appropriateness of the adult and/or family member's/ guardian's/carer's involvement in the Case Conference, taking into consideration the adult's consent and capacity, the information likely to be shared, the effect of this information on the adult and the views of others who know the adult.

When the adult and/or family/guardian/carer are present during the Case Conference, the Chair will meet with the professionals attending the Case Conference prior to its commencement and before the adult/family/guardian/carer involved are invited in, to confirm if any professionals need to share information without the family, etc being present.

The Chair should also confirm that all professionals involved are aware of the facility to ask for an adjournment at any time during a Case Conference, for example to share information which the adult etc cannot be party to and to agree how this will be signalled and responded to.

Where appropriate, the Chair will introduce him/herself to the adult/family/guardian or carer involved immediately prior to the Case Conference and confirm their understanding of the purpose and process of the Case Conference.

Where the adult and their family/guardian/carer have been excluded from (i.e. throughout) the Case Conference, the Chair must ensure that the decisions of the Case Conference are fed back to them as soon as practicable, if agreed to by the adult and if the adult has the capacity to make this decision.

Where the adult is included in the Case Conference process a professional must be identified as being responsible for going over the content of the Case Conference, both before and after, to ensure that the adult is able to understand as much of the content as possible.

5.5.3 Involvement of a Friend/Advocate at a Case Conference

There may be occasions when an adult/family member/guardian/carer concerned may wish to be supported by the attendance, at the Case Conference, of a friend, other relative, professional person or member of an independent service, for example, Advocacy or Victim Support. The attendance of such a person, who may be able to assist the adult in clarifying the content of the discussion, should be positively encouraged.

5.5.4 Exclusion of Family/Guardian/Carer in a Case Conference

Practice in this area should be characterised with a genuine wish for involvement of adult/family/guardian/carer. It is only where there are substantive grounds to believe that the involvement of adult/family/guardian/carer would undermine the process and purpose of the Case Conference, that they should be excluded throughout or when the adult has asked that they be excluded, if the adult has the capacity to make this decision.

Grounds for exclusion of the family/guardian/carer would be when:

- a level of conflict or tension exists within the family/guardian/carer; or

- when there is substantive evidence to believe that there is a likelihood of violent or serious disruption of the process of the Case Conference.

Being under suspicion of causing harm is not sufficient reason in itself to exclude a family member/guardian/ carer but this may be judged necessary by the Chair, if their presence would seriously affect the consideration of the risk to the adult concerned or where it would prevent the adult actively taking part.

Where the adult/family/guardian/carer has been excluded throughout the Case Conference it is the responsibility of the Chair to ensure that they are informed of the outcome, if appropriate.

5.6 Format of the Adult Protection Meetings and Case Conferences

The Chair should follow the set agendas for the Adult Protection Meeting/Case Conference.

5.6.1 Interpretation and Assessment of Information

During the course of both the Adult Protection Meetings and Case Conferences it is essential that time is taken to share all relevant information both current and historical, confirming the nature of the information, where it came from and whether it can be substantiated.

The Chair is responsible for ensuring that the information has been correctly interpreted and understood by those at the Adult Protection Meeting and that any disagreements are resolved at the time or noted in the minute, with reasons for the dissent detailed.

The Chair should lead the discussions which focus on:

- What the specific risks to the adult are.
- Whether or not the concerns/risks be substantiated.
- What support networks are available to minimise these risks to the adult.

The Adult Protection Meetings/Case Conferences need to decide whether the adult and/or any other adult/child has been harmed or is believed to be at risk of harm.

5.6.2 Adult Protection Meeting

At an Adult Protection Meeting, if it is concluded that there appears to be evidence of harm, a full investigation should be carried out, followed by a Case Conference, if necessary.

If concerns exist but cannot be substantiated, an Adult Support and Protection Care Plan should be agreed. This will include:

- what care and/or support will be provided to the adult.
- whether the adult should be placed on the Care Programme Approach.
- the outcome of any risk assessments undertaken and whether additional risk assessments should be carried out (Section 9.8).
- Police contact if appropriate.
- how the situation will be monitored and by whom.

- whether the concern/information needs to be shared with others such as professionals, the adult/family/guardian/carers, etc.
- where there are continued concerns regarding the welfare of the adult, the case **must** be allocated to an appropriately trained professional.

A review date must be agreed, which must be within a maximum of 6 months of the original Adult Protection Meeting. The Adult Support and Protection Care Plan must identify who is responsible for arranging this review.

5.6.3 Case Conference

At a Case Conference, if it is concluded that there is evidence of harm, an Adult Support and Protection Care Plan must be agreed. This will include: details of how the harm will be removed or reduced to an acceptable level, including the further involvement of other agencies including but not limited to the Police, Care Commission, Mental Welfare Commission and the Public Guardian; the application for a Protection Order and/or the provision of support to the adult and/or their carers.

A review date must be agreed within a maximum of 6 months of the original Case Conference. The first review must (wherever possible) be chaired by the same person who chaired the original Case Conference. In all cases, this will take the form of a Care Program Approach (CPA) until the risk has been removed or reduced to an acceptable level.

5.7 Minutes

The minutes of both the Adult Protection Meetings and Case Conferences must be distributed within 14 days of the Adult Protection Meeting/Case Conference to all those who were invited, together with a copy of the Adult Support and Protection Care Plan (if applicable). The minute and the Adult Support and Protection Care Plan must also be sent to the adult's GP and any other professionals actively involved in her/his support (even when she/he has not been present at the Adult Protection Meeting/Case Conference).

The Chair is responsible for ensuring the accuracy of the minutes.

Section Six – Governance

6.1 Role of Council Officers

Certain functions under the Act can only be carried out by a designated Council Officer. Council Officers are required to be council employees and will have a required level of experience and training.

There are two categories of Council Officer:

1. In respect of:

- Sections 7-11 of the Act: visits to premises to make necessary investigations to establish whether or not further action is needed to protect an adult at risk of harm, interviews, request medical examinations, examination of records, assessment orders.
- Section 14: removal orders.
- Section 16: Right to move adult at risk.
- Section 18: protection of moved person's property.

Council Officers will need, as a minimum, to be registered as:

- social workers (SSSC) or occupational therapists (HPC) or nurses (NMC) and
- have at least 12 months post qualification experience in identifying, assessing and managing adults at risk.

2. In respect of:

- Sections 7 -10: visits, interviews, requests, medical examinations, examination of records.

Council Officers will need, as a minimum, to be registered as:

- social service workers (SSSC) and
- have at least 12 months post qualifying experience identifying, assessing and managing adults at risk.

The assumption is that registration standards for continuous professional development and the appraisal process will assure the necessary competence to identify, assess and manage adults at risk.

6.2 Role of the Council

The Council has the primary duty in terms of Adult Protection. All concerns must be reported to the Council who will coordinate any subsequent inquiries/investigations with partner agencies.

Following the reporting of any concerns, the referrer will receive feedback in terms of the outcome. The level of this feedback will be determined by the status of the referrer. (Section 9.11).

6.3 Role of the Police

The Police will discuss all concerns brought to their attention, where an adult is considered to be at risk of harm under the Adult Support and Protection (Scotland) Act 2007, with the Council and agree how to proceed with the concern.

Where there is an allegation of criminality the Police will take primacy over the investigation and fulfil their duty to report criminal offences/crimes to the Procurator Fiscal in the usual manner.

The Police will share the Police 'concern form' with the designated Council representative in all situations where a concern has been raised with them and they know or believe the adult concerned is an adult at risk under the Act.

Where the Council, Care Commission or NHS are to take the lead in the investigation, the Police will be informed of the outcome.

6.4 Role of Care Commission

Where harm is alleged to have taken place in services that are registered with the Care Commission, they must be informed immediately.

Where there are allegations or concerns which might amount to serious malpractice or other circumstances to indicate present or potential risk to the welfare of the Adult, the Council will be notified immediately so that they can coordinate the Adult Protection Procedures, including notification of the Police.

Where harm is suspected or alleged to have occurred in a registered service the role of the Care Commission will be to:

- Assist the Council and Police in their enquiries.
- Assess the level of risk to establish any regulatory action which requires to be taken with the provider/service to ensure the safety of all users being cared for.
- Maintain ongoing liaison with the Council/Police, where relevant, to ensure that the Care Commission can take account of the outcome of any investigation in respect of their ongoing regulatory duties and activities.

Where it is established that a service is operating in a manner which fails to adequately protect users, the Care Commission will consider whether enforcement action is required, either to protect the user who has been subject to harm, or other users who are receiving a service. Such enforcement action may include the imposition of conditions on registration,

-serving an improvement notice, or making application for a Section 18 cancellation of registration.

Where the Council or Police are to take a lead in the investigation, the Care Commission will be informed of the outcome as soon as possible.

6.5 Role of NHS

The NHS will report all cases where an adult is considered to be at risk of harm to the Council and agree how to proceed with the investigation e.g. single agency lead, joint etc. This includes instances where an allegation is made against an NHS member of staff either in the community or in NHS establishments.

NHS staff will co-operate with the Council making inquiries regarding an adult and with each other where that would assist the Council. Information and records regarding the adult will be provided when requested under the Act.

A doctor, nurse or midwife may conduct a medical examination under the Act during a visit or as part of an assessment order. They may also be asked by a Council Officer to examine health records.

It is an offence to prevent or obstruct any person from acting under the Act and to refuse without reasonable excuse to provide information.

6.6 Role of Adult Protection Units

Adult Protection Units have been developed in Aberdeen City, Aberdeenshire and Moray to meet the needs of the different geographical locations/areas they cover. These units will be responsible for overseeing any adult protection concerns on behalf of the council.

6.7 Role of Adult Protection Committees

The Act places a duty on each Council in Scotland to establish an Adult Protection Committee. There are three Adult Protection Committees in Grampian: Aberdeen City; Aberdeenshire and Moray. The role of these Committees includes responsibility for monitoring and advising on adult protection procedures, ensuring appropriate cooperation between agencies and improving the skills and knowledge of those with a responsibility for the protection of adults at risk.

Membership of the Adult Protection Committees includes representatives from the respective Council, NHS Grampian, Care Commission, Grampian Police and the Independent and Voluntary Sectors.

Adult Protection Committees have a duty to evaluate and learn from critical incident reviews. In the Grampian area a Root Cause Analysis approach is being developed. Further information will follow.

6.8 Role of Grampian Adult Protection Working Group

A Grampian Supporting and Protecting Adults Group has existed since September 2005, comprising members of staff from Aberdeen City Council, Aberdeenshire Council, The Moray Council, NHS Grampian, Grampian Police, The Care Commission, Age Concern Scotland and Aberdeen City Voluntary Organisations.

This group has primarily been engaged in developing this multi-agency policy and procedure. This document was launched in 2006. The Group developed and oversaw the delivery of a training programme.

The group will continue to work to provide a consistent approach to providing a service to adults at risk of harm throughout Grampian.

6.9 Pan Grampian Group

A Pan-Grampian Adult Support and Protection Committee is in the process of being established to co-ordinate the work of the three local Committees, ensuring consistency across the three local authority areas. The Chief Executive of NHS Grampian has agreed to chair the group in the first instance.

6.10 Multi-Agency Working

All agencies have a duty to share information relating to adults at risk of harm, including the outcome of any enquiries or criminal investigations.

The Act provides that Councils, the NHS and Police will work closely together in carrying out investigations and putting in place protective measures.

In Grampian the Councils, Grampian Police, NHS and the Care Commission will undertake joint investigations where appropriate. The nature and appropriateness of joint investigations will be discussed at the 'Initial Referral Discussion' and will occur where there is a joint remit e.g. an adult protection issue and criminal investigation (Council and Police) or an adult protection incident has raised concerns about a registered care home (Council and Care Commission). A joint investigation should reduce the negative effect of the investigation on the adult but should not compromise the remit of any of the agencies involved.

Section Seven – Legal Context

7.1 Context

This section outlines the main legislation relating to adults at risk of harm. Legislation can and will change and therefore Council Officers should alert the Council’s Legal Advisor/Solicitor at the earliest opportunity where it is likely that an Order under any legislation will be required.

All adults, at risk of harm or not, and having capacity or not, enjoy the same legal rights and should be treated accordingly. Identifying that an adult is at risk of harm is no justification for overriding or ignoring these rights.

The distinction in law is made between those adults who are capax (capable of managing their affairs) and those who are not. Until an adult is recognised in law as being incapable of managing their affairs or making decisions about their own welfare, no care agency can intervene in a relationship because they deem it to be unsuitable or harmful. The statutory powers and duties of any care agency are underpinned by the Human Rights Legislation. This works both ways so that, as well as protecting an individual’s right to live his or her life peaceably and without fear, an authority must also (within reason) respect the manner in which the individual chooses to live her/his life. Where an individual has the capacity to express her/his free will, care agencies can do no more than give information about services and, where appropriate, help the adult to take up those services/options. They should not try to direct an individual to use these services in a manner that might be regarded as coercive.

It is for the foregoing reason that, when approaching the kind of situation where there is the suspicion of harm of a type which requires to be remedied by legal intervention (civil or criminal), the preliminary issue to be settled in every instance is whether the alleged victim has capacity (Section 8, Dilemmas Faced in Adult Protection).

7.2 Adult Support & Protection (Scotland) Act 2007

The main provisions of the Act create new measures to protect adults who are believed to be at risk of harm. These include: rights of entry to places where adults are thought to be at risk of harm; a range of protection orders including assessment, removal of the adult at risk, and banning of the person causing the harm; and the creation of multi-disciplinary adult protection committees. The Act states that councils have the lead responsibility for adult protection. The principles of the Act apply to any public body or office holder undertaking a function under the Act. Therefore a public body or guardian must be able to demonstrate that the principles have been applied to their decision making and intervention.

The overarching principles of the Act state that a public body or officer holder must be satisfied that an intervention:

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

The guiding principles of the Act state public bodies or office holders must have regard to:

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

To summarise, the Act states that intervention must provide benefit to the adult and be least restrictive to the adult's freedom and, if relevant, have regard to:

- the wishes and feelings of the adult;
- any views of the adult's nearest relative, primary carer, guardian, attorney or other person, who has an interest;
- the importance of the adult participating as fully as possible and providing her/him with such information and support to enable them to participate;
- ensuring that the adult is not treated less favourably than any other adult in a comparable situation; and
- the adult's abilities, background and characteristics.

It should be noted that several groups of people are not bound by the principles of the Act including ".....the adult; the adult's nearest relative; the primary carer; an independent advocate; the adult's legal representative; and any guardian or attorney of the adult"

7.3 Adults with Incapacity (Scotland) Act 2000

The Adults with Incapacity (Scotland) Act 2000 is a significant piece of legislation in the protection of adults at risk of harm.

Until the 2000 Act was passed, the law did not directly address the question of how to proceed when faced with the gradual erosion of an individual's capacity. The Adults with Incapacity (Scotland) Act 2000 introduces a more flexible system of providing for care as well as protecting the individual and their assets. It is important to note that the 2000 Act does not simply address the needs of individuals who are incapax but is concerned with incapable adults who are defined as being:

'incapable of acting, making decisions, communicating decisions, understanding decisions or retaining the memory of decisions by reason of mental disorder or physical disability.'

All decisions made on behalf of an adult with impaired capacity must:

- benefit the adult;
- take account of the adult's wishes and the wishes of the nearest relative or primary carer, and any guardian or attorney;

- restrict the adult's freedom as little as possible, while still achieving the desired benefit;
- encourage the adult to use existing skills or develop new skills.

Under the 2000 Act a number of different agencies are involved in supervising those who take decisions on behalf of the adult.

- The Public Guardian has a supervisory role and keeps registers of Attorneys, people who can access an adult's funds, Guardians and Intervention Orders.
- Local Authorities (Councils) look after the welfare of adults who lack capacity.
- The Mental Welfare Commission protects the interests of adults who lack capacity as a result of mental disorder.

7.4 Mental Health (Care and Treatment) (Scotland) Act 2003

The Mental Health (Care and Treatment) (Scotland) Act 2003 specifies certain principles that should be applied. These include that the person discharging the functions, by virtue of the Act, should have regard to the views of the patient, the patient's carer and any guardian or welfare attorney of the patient. It is also important for the patient to participate as fully as possible in the discharge of the function. The powers should be exercised in a non-discriminatory manner and observe equal opportunity requirements.

The 2003 Act uses the term 'mental disorder', which this encompasses mental illness, learning disability and personality disorder.

The 2003 Act creates a Mental Health Tribunal, replacing the role of the Sheriff in matters of Civil Compulsion, and it expands the role and duties of the Mental Welfare Commission (Section 9.1, Glossary of Terms). The Act also extends the duties of local authorities, to promote the wellbeing and social development of all persons in their area who have or have had a mental disorder and provide care and support services.

7.5 Working across Legislation

The Adult Support and Protection, Adults With Incapacity and Mental Health Acts all contain information that relate and can be used to protect adults at risk of harm.

Comparisons can be made in relation to:

- Definitions of those covered.
- Principles.
- Duties to inquire and investigate.
- Potential intervention.

(Section 9.3, 9.4, Legislation Framework and Flowchart)

Consideration should be given as to which legislation would be most effective and least restrictive to the adult at risk. Council Officers should seek advice from the Council's Legal Advisor/Solicitor to enable a full assessment of the legal options available to occur.

7.6 Data Protection Act 1998

The Data Protection Act 1998 regulates the processing of information relating to individuals. This includes the obtaining, holding, using or disclosing of such information, and covers computerised records as well as manual filing systems and card indexes.

Where concerns are raised in respect of data being shared advice should be sought from the agency's Data Protection Officer.

For the purposes of Adult Protection it is lawful for personal information to be shared where there is a genuine concern that the person may be being harmed or at risk of being harmed.

Information should be shared in line with the General Protocol for Sharing Information/ Sharing Information Without Consent Protocol.

7.7 Human Rights Act 1998

The ECHR (European Convention of Fundamental Rights and Freedoms, 1950) sets out a number of rights and freedoms. These rights and freedoms are given direct legal effect in the UK by the Human Rights Act 1998 (HRA 1998). The objective of the ECHR has been identified as the protection of individual human rights and the maintenance and promotion of the ideals and values of a democratic society. The ECHR therefore seeks to achieve a fair balance between the demands of the general interests of the community and the protection of individual human rights.

The Human Rights Act (HRA) provides that it is unlawful for a public authority to "act" in a way which is incompatible with a Convention Right. An individual who is directly affected by specific action which is taken/ authorised by a public authority is known as a "victim" under the HRA 1998. The victim of an alleged unlawful act may be able to bring a human rights challenge against the public authority concerned. Public authorities must therefore ensure that their policy making, procedures, exercise of discretion and the decisions that they make which affect other people are compatible with Convention rights.

Not all Convention rights are guaranteed absolutely and in certain circumstances a public authority will be justified in interfering with an individual's Convention rights.

Any action that is to be taken by a public authority must be consistent with human rights requirements. Where it is likely that an individual's rights may be infringed upon, then such action must be done under legal authority, have a legitimate aim and be necessary in a democratic society i.e. proportional in terms of finding a balance between carrying out a necessary statutory duty and infringing upon the person's human rights, It is also important that any interference is non-discriminatory.

A public authority has to be able to justify violating a person's human rights e.g. where the infringement of the right to privacy is necessary for the protection of health or morals, or the infringement of the right to liberty is necessary because the person is of unsound mind.

Where concerns are raised that human rights are being infringed advice should be sought from the Council's Legal Advisor/Solicitor.

Section Eight – Dilemmas Faced in Adult Protection

The protection of adults raises a variety of complex issues for individuals and agencies alike. There may be a number of issues which must be considered within the context of each case. Some of these are discussed in more detail below.

8.1 Rights/Self Determination

In addition to the overarching principles, public bodies or other office holders must have regard to:

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

There is a tendency to believe that adults at risk of harm should be protected and that their right to choose is secondary to this. This is not the case; adults at risk are individuals and, if they are deemed to have capacity, and if there is no evidence of undue pressure, they must be allowed to exercise their rights, even if that means they choose to remain in a situation some people would consider inappropriate or harmful. Every effort should be made to inform the adult of the consequences of the choice she/he may be making and to offer viable alternatives, this should include reviewing existing support arrangements.

8.2 Consent/Confidentiality/Disclosure

The principles of the Act apply to any public body or officer holder performing a function under the Act. All professionals who have contact with adults have a **DUTY** to refer concerns/anxieties/disclosures to the appropriate council.

It is recognised that, at times, this may pose a dilemma for staff who may feel that, by doing so, this could alienate the adult and/or the family and the potential for preventative work. To do nothing or to promise absolute confidentiality and then report the concern is not acceptable. The recommended procedure is to openly and honestly discuss, with the adult and/or family/guardian/carer, the intention to report the information given and to advise them of the possible consequences.

If this is not possible it remains **your duty** to refer concerns to the appropriate Council.

The Council undertakes that information passed to them as part of an Adult Protection Investigation will be treated as confidential and not shared without discussion with the agency initially in receipt of the information. For example, if the Care Commission advises a Council of an issue in a care home passed to them by a member of staff, they should agree how to manage the information to prevent staff at the care home being penalised.

8.3 Undue Pressure

If the adult has capacity and refuses consent to partake in an inquiry/ investigation the Council, when applying for a Protection Order, must prove to the Sheriff:

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

Undue pressure can be applied by an individual:

- who may not be the person suspected of actually harming the adult; or
- who the adult is afraid of or who is threatening her/him and the adult does not trust

The Act provides a further example of what may be considered as undue pressure:

- harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust; and
- the adult at risk would consent if they did not have confidence and trust in that person.

8.4 Capacity

Where there is doubt about the adult's mental capacity the following factors should be considered:

- 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 her/his right to refuse to answer questions as well as the possible consequences of doing so?

The Council Officer has to form an initial view on capacity. The Council Officer may then need to move to seek a capacity assessment through the standard procedures. Best practice indicates that this is determined through a multi-disciplinary process. Therefore the initial judgement on whether an adult has capacity may not necessarily be the final judgment. By law an adult must be assumed to have capacity unless found otherwise.

Legally only a medical practitioner may undertake a formal assessment of capacity but best practice dictates that this decision should be based on a multi-disciplinary review.

The initial assessment of capacity should be based on contemporary knowledge from care providers/family members/guardian and any known formal assessments recorded in the adult's files. This information should be made available on a "need-to-know" basis to any practitioner carrying out an investigation under the Policy and Procedure.

Where the adult appears to lack capacity, consideration should be given to relevant legislation as detailed in the Legal Framework (Section 9.3-9.4, Legislation Framework and Flowchart). Where a decision has to be made urgently about capacity, consideration must be given to the circumstances/risks and immediate actions required.

In all circumstances, account should be taken of an individual's present and past wishes while noting that these may not necessarily change the outcome/decisions made.

8.5 Risk Taking

Concern over risk taking can stifle and constrain providers of care, leading to an inappropriate restriction of the individual's rights. There is a challenge for people working with adults at risk of harm to define a way forward where they are able to take calculated risks.

All decisions must be based on informed choice and the measures taken to address the risk must be proportionate to the likely outcome and least restrictive.

8.6 Challenging Behaviour/Restraint

Some adults at risk present challenging behaviour that needs to be managed either in their own home, day care setting, care home, community or hospital. This brings with it a number of dilemmas including issues of restraint and the disguising of medication in food and drink. These areas require to be carefully thought through. Any action undertaken to manage an adult with challenging behaviour could be misinterpreted, potentially leading to an allegation of harm.

Local Authorities are required to have up-to-date policies and procedures to ensure that adults at risk are protected and that staff are competent, confident and trained. In the community the people who receive services may present with particular demands, which often involves staff working with people who manifest challenging behaviour. Local Authorities have a duty to ensure that the service delivered is consistent, in line with legislation and with local policies and procedures.

Local Authorities are required to monitor practice to ensure the safety of all service users and staff.

Many organisations will encounter adults with challenging behaviour. Different agencies may have different techniques; however the primary emphasis should always be on using communication skills and on de-escalation.

The Care Commission has overall regulatory responsibility for Social Care Services to ensure that National Care Standards are met by all providers.

Where the adult is deemed to lack capacity with regard to consent to treatment and understanding of treatment plans, legislation under Part 5 of the Adults with Incapacity (Scotland) Act 2000 or treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 must be implemented.

Any decision regarding use of restraint must be as a result of collaborative practice in consultation with other relevant professionals and must be appropriately recorded, for example, in an Individual Adult Protection Care Plan which is monitored and reviewed. Guidance for the use of restraint, either physical or chemical, can be found in the Council Physical Intervention Guidelines (see Section 9.1, Glossary of Terms).

8.7 Allegations of Harm Against Workers

It is possible that an allegation of harm may be made against a worker either formally or informally, by whatever means, by a member of the public or by a 'Whistle-blowing' member of staff. (See Section 9.1, Glossary of Terms). Depending on the nature of the allegation it may be necessary for the involvement of the police and/or for the organisation to regard it as a formal complaint and initiate an investigation into the worker's alleged behaviour through the organisation's own conduct procedures (concurrent with the Adult Protection investigation). Consultation with the organisation's Human Resources section or equivalent and the line manager, at an early stage, is vital to determine the appropriate routes for such matters to be progressed. In the absence of an organisation's own Human Resources section, it is advisable to make contact with the Council's Human Resources Service.

It is essential, in these circumstances, to keep sight of all relevant procedures and not confuse the issues, for example, protection of the adult at risk of harm with Human Resources, Criminal and/or Care Commission Proceedings.

Section 9 – Appendix and Forms

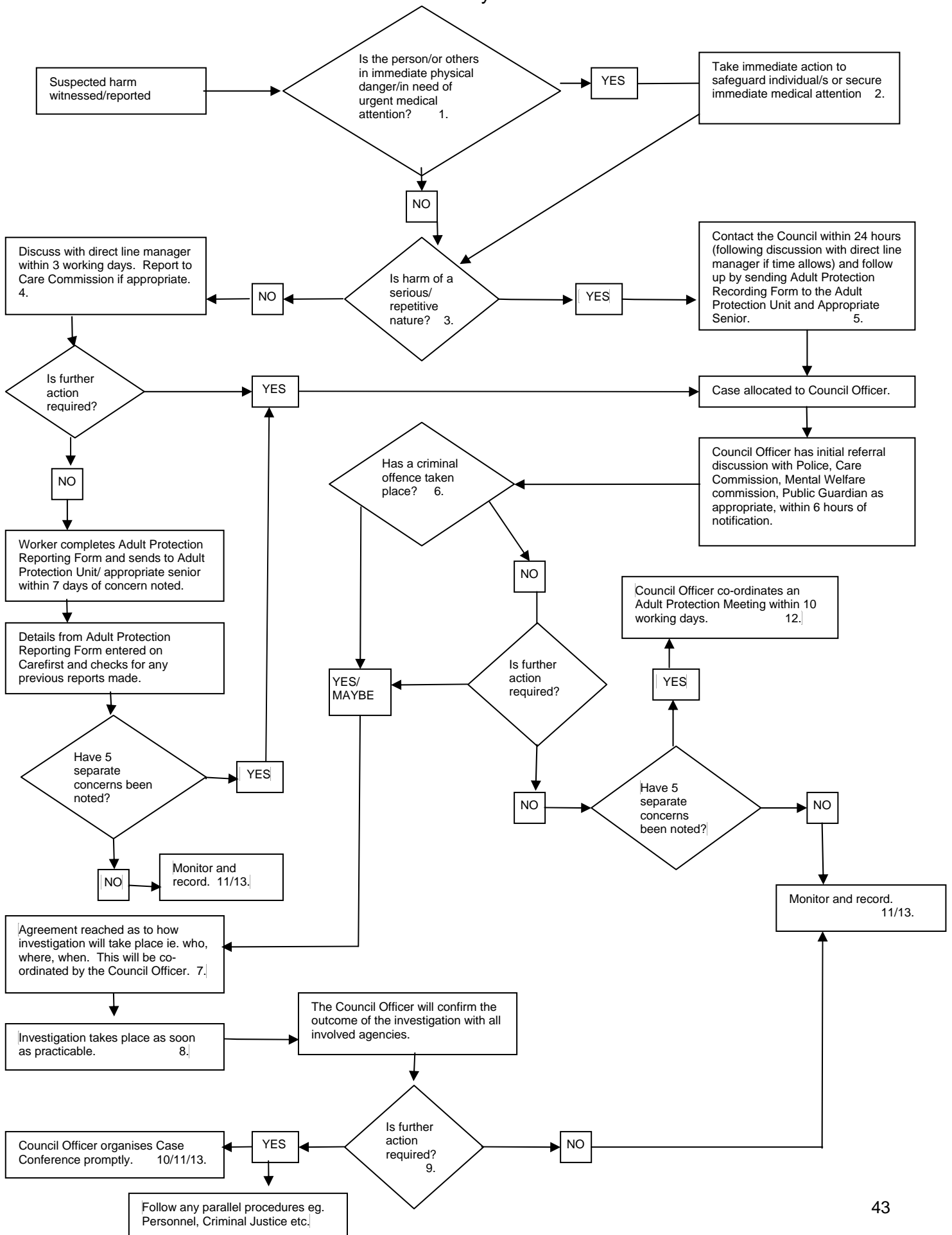
9.1 Glossary of Terms

- **Advocacy:** is about enabling people to be heard, helping them to express their views and assisting them to make their own decisions and contributions. Contact with the appropriate advocacy service can be made through the Council or NHS Grampian. Independent advocacy is not provided by a Council, or NHS Board or a member of the Council or NHS Board. The adult should not be expected to pay for advocacy services.
- **Capacity:** the ability to make a particular informed decision.
- A **Carer** is someone who, without pay, provides care, help and assistance to someone else who is disabled, frail or unwell and may be a spouse, relative, neighbour or friend.
- **Care Commission:** The Commission for the Regulation of Care (Care Commission) has a number of duties which are specified in the Regulation of Care (Scotland) Act 2001.
- **Care Programme Approach (CPA):** The CPA is designed to be used in complex and high risk cases to ensure that the adult's health and social care needs are carefully assessed, a personalised Adult Protection Care Plan developed, keyworker allocated and progress regularly monitored and reviewed.
- **Sexuality Policy "Making Choices, Keeping Safe":** Guidelines which detail Policies and Procedures regarding Sexuality. (Please contact your Council Office for copy.)
- **Information Sharing Protocols including General Protocol for Sharing Information/Grampian Information Sharing Policy (Information Sharing Without Consent) and Service Specific Protocols:** Protocol, Guidance and Forms are available from the Council or NHS Grampian and should be consulted separately.
- **Line Manager/Supervisor:** the person who has managerial responsibility for an individual worker.
- **Lone Working Policy:** Guidelines which detail Policy and Procedures regarding Lone Working. (Please contact your Council Office for copy.)
- **Mental Disorder:** Mental Illness or Personality Disorder or Learning Disability (however caused or manifested).
- **Mental Health Officer:** a Council social worker, who has undergone specific post qualifying, accredited training in mental health. This person has certain delegated powers under the Mental Health (Care & Treatment) (Scotland) Act 2003, Adults with Incapacity Act 2000 and the Criminal Procedures Act (1995) as amended, to act in conjunction with medical practitioners in the compulsory detention of individuals with mental disorders.

- **Mental Welfare Commission:** a national body appointed by the Scottish Executive to oversee and protect the rights of those with a mental disorder. The Mental Welfare Commission has a duty to investigate any complaint it receives concerning the welfare of anyone with a mental disorder.
- **Physical Intervention Policies and Procedures:** Policies and Procedures regarding the use of physical intervention. (Please contact your Council for copy).
- **Public Guardian:** Senior Manager within the Scottish Court Service who keeps public registers of those with functions under the Adults with Incapacity Act, grants authority in some cases and supervises those with financial powers.
- **Safe Place:** this can be an informal arrangement to allow an adult at risk to be accommodated safely, without the risk of further harm e.g. hospital, care home or the home of another family member. N.B. This should not be confused with a Place of Safety, as determined by legislation.
- **Social Care:** a range of settings, statutory and voluntary, including care homes and care at home, where vulnerable people are looked after or assisted with their essential living tasks.
- **Whistle Blowing:** a means by which staff can safely raise their concerns within their organisation about matters of suspected or actual malpractice. This allows an individual to bypass the formal line management arrangements if necessary.
- **Working or Volunteering:** for the purpose of this Policy and associated Procedure this includes anyone who is in a social care setting.

9.2 Adult Support Protection Flowcharts and Notes

Procedure following alleged or suspected harm to an adult under the Grampian Support and Protection of Adults at Risk of Harm Policy

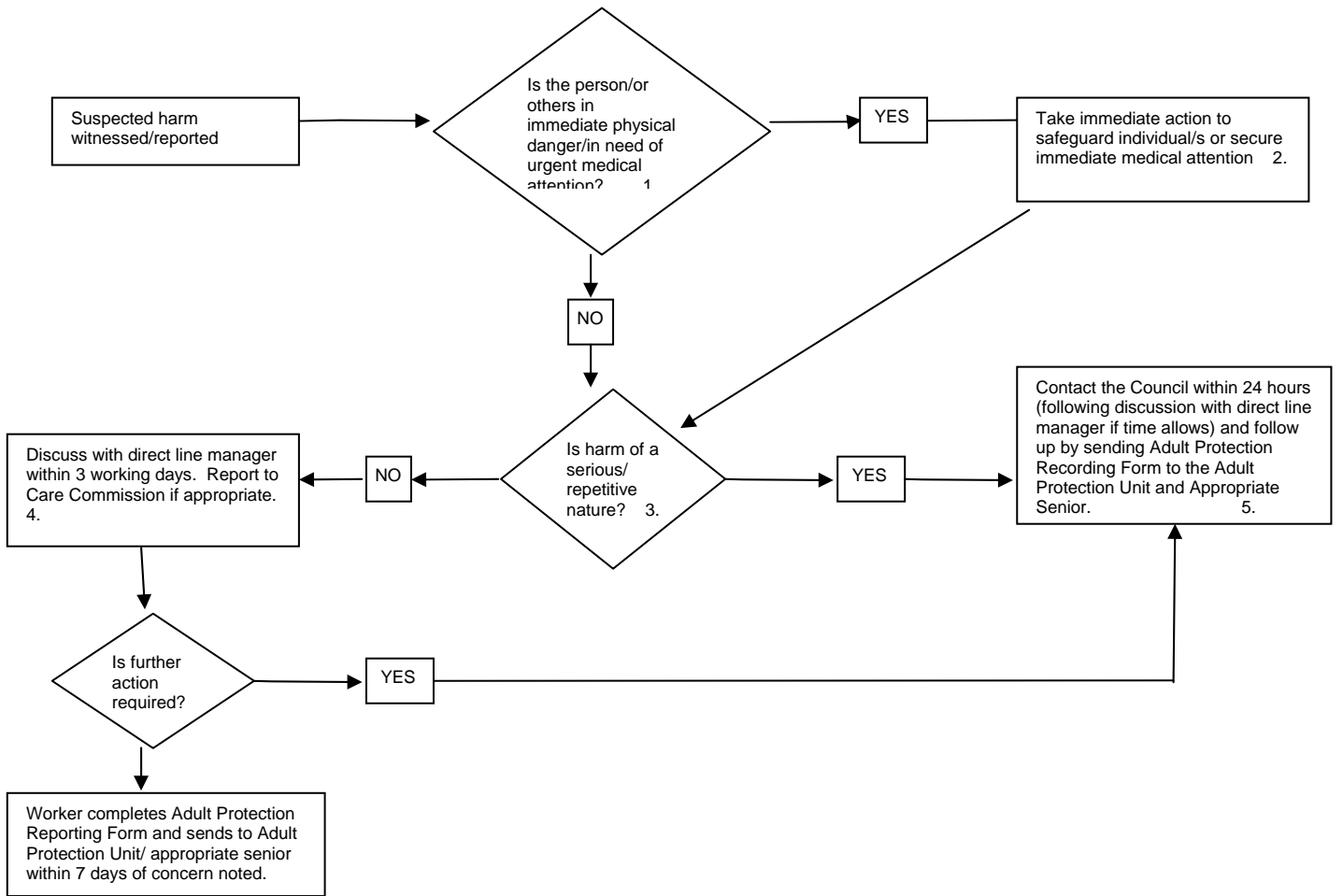


Flowchart Notes (long)

1. The first person to engage with the adult should assess whether she/he is in immediate danger or in need of urgent medical attention. Consideration should be given to the adult's capacity. It must be remembered that it is everyone's duty to ensure an adult's safety wherever possible. Staff should not undertake to question the adult further.
2. Take immediate action to safeguard the Adult and/or other individuals, e.g. take to Accident and Emergency Department, call GP or take to a safe place, for example, the family home, any residential care home, day care setting, council office, or respite facility. Ideally this should be somewhere known to the adult. It may be possible to use the legislation to remove a person (Section 7, Legal Context, for information on relevant legislation). Consideration should be given to other policies which may be applicable e.g. disciplinary procedures.
3. Is harm of a serious or repetitive nature? E.g. is it likely to cause immediate physical/ financial/emotional/emotional harm? (Section 2.2, Patterns of Harm.)
4. Any suspected harm within a registered establishment/service should be reported to the Care Commission.
5. Contact should be made with the appropriate contact point within the Council area. This contact should be followed up with a completed Adult Protection Recording Form being sent to the Adult Protection Unit or appropriate senior. CareFirst should be checked for previous knowledge of the adult. The Report should be recorded on CareFirst. Relevant contact information will be provided at the Adult Protection training and will be available in local procedures.
6. It is the Police's responsibility to make a decision as to whether a criminal offence has taken place. Where this is the case the Police will take the lead in investigation of the alleged offence.
7. It is the Council's duty to ensure that investigations are carried out. A joint investigation may be appropriate, involving the Council Officer, Police Officer, Health Professional, Care Commission Officer, member of the Office of the Public Guardian or Mental Welfare Commission. Where there is lack of clarity, a joint investigation should always take place, for example, Care Commission/Council Officer, Council Officer/Police, Police/NHS.
8. Prior to investigation taking place, consideration should be given to Principles of Investigation (Section 4.1, Investigations) and/or whether an Appropriate Adult, Advocate or communication aids is required. All investigating professionals must have had the appropriate training. For the Council this means an authorised Council Officer. The investigation should take place as soon as practicable and without undue delay. This will depend on the circumstances and urgency of the case.
9. Action could include consideration of a Protection Order, removal of the adult to a safe place, arrest of the alleged perpetrator by the police, or suspension of a staff member pending investigation by Human Resources/Human Resources Section.

10. The Case Conference should be organised promptly, with a timescale which is reasonable and proportionate to the perceived possible risk to the individual. (Section 5, Meetings).
11. The incident, any subsequent investigation or continuing care and support of the individual should be recorded by all agencies involved following individual agency procedures. (Section 3.5, Recording Information).
12. Adult Protection Meetings (Section 5, Meetings).
13. The CareFirst recording procedure must be followed throughout.

Procedure following alleged or suspected harm to an adult under the Grampian Support and Protection of Adults at Risk of Harm Policy



Flowchart Notes (short)

1. The first person to engage with the adult should assess whether he/she is in immediate danger or in need of urgent medical attention. Consideration should be given to their capacity. It must be remembered that it is everyone's duty to ensure an adult's safety wherever possible. Staff should not undertake to question the adult further.
2. Take immediate action to safeguard the Adult and/or other individuals, eg. take to Accident and Emergency Department, call GP or take to a safe place, for example, the family home, any residential care home, day care setting, council office, or respite facility. Ideally this should be somewhere known to the adult. It may be possible to use the legislation to remove a person (See Section 7 Legal Framework, for information on relevant legislation). Consideration should be given to other policies which may be applicable eg. disciplinaries.
3. Is harm of a serious or repetitive nature? Eg. is it likely to cause immediate physical/ financial/ emotional/ emotional harm? (See Section 2.2 Patterns of Harm.)
4. Any suspected harm within a registered establishment/service should be reported to the Care Commission.
5. Contact should be made with the appropriate contact point within the Council area. This contact should be followed up with a completed Adult Protection Recording Form being sent to the Adult Protection Unit or appropriate senior. Carefirst should be checked for previous knowledge of the adult. The Report should be recorded on Carefirst. Relevant contact information will be provided at the Adult Protection training and will be available in local procedures.

9.3 Legislation Framework

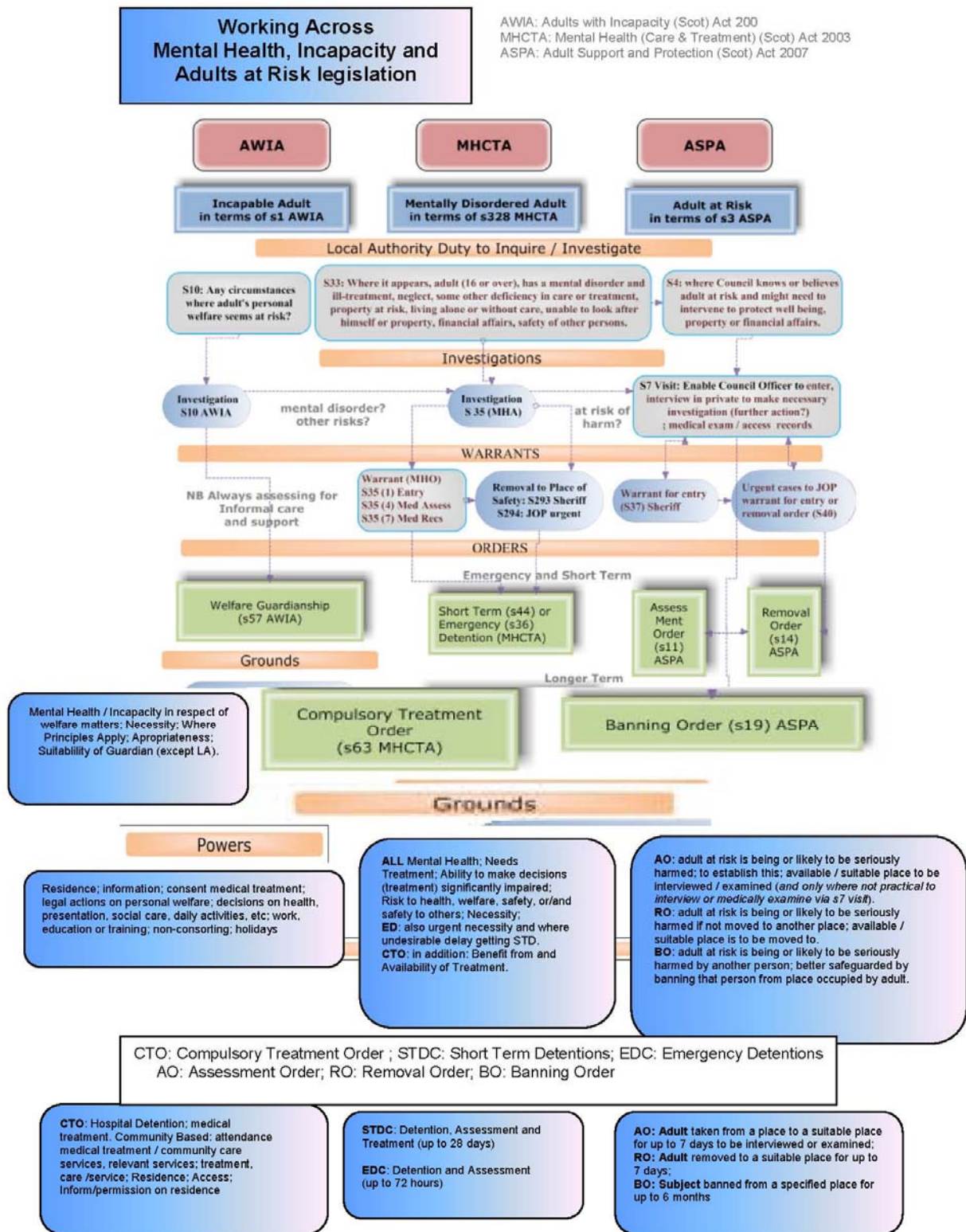
	ASP	AWI	MHCT
	<u>Adults at Risk of Harm</u>	<u>Adults with Incapacity</u>	<u>Mentally Disordered Adults</u>
Subject	<p>Adults, aged 16 years or over, who are:</p> <ul style="list-style-type: none"> • Unable to safeguard their own well-being; • At risk of harm (whether from another person or self harm); • Because affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected. 	<p>Adults, aged 16 years or over,</p> <p>Incapable of:</p> <ul style="list-style-type: none"> • Acting; • Making decisions; • Communicating decisions; • Understanding decisions; or • Retaining the memory of decisions; • Because affected by mental disorder or inability to communicate because of physical disability (this physical disability incapable of being made good through human or mechanical aid). 	<p>Adults and children, with a mental disorder.</p> <p>The term mental disorder covers mental illness, personality disorder or learning disability.</p>
Principles	<p>Intervention must:</p> <ul style="list-style-type: none"> • Benefit the adult; • Be the least restrictive option; • Any body or person performing a function must, 	<p>Intervention:</p> <ul style="list-style-type: none"> • Will benefit the adult • Be the least restrictive option; • Take account of adult's wishes and feelings 	<p>Intervention must:</p> <ul style="list-style-type: none"> • Provide maximum benefit to the person; • Be least restrictive option • Take account of adult's wishes and feelings (past and

	ASP	AWI	MHCT
	<p><u>Adults at Risk of Harm</u></p> <p>if relevant, have regard to:</p> <ul style="list-style-type: none"> • Take account of adult's wishes and feelings (past and present); • Take account of views of adults nearest relative, primary carer, guardian or attorney and any other person with interest in the adults well-being or property; • Do not treat the adult less favourably; • Ensure adult participate as fully as possible, and provide information to facilitate this; • The adult's abilities, background and characteristics. 	<p><u>Adults with Incapacity</u></p> <p>(past and present;)</p> <ul style="list-style-type: none"> • Take account of views of adult's nearest relative, primary carer, guardian or attorney, person (s) identified by Sheriff and any other person with interest in adults welfare or the intervention; • Adults should be encouraged to use existing skills or develop new skills. 	<p><u>Mentally Disordered Adults</u></p> <p>present);</p> <ul style="list-style-type: none"> • Take account of views of patient's named person, carer, guardian and welfare attorney; • Do not treat the adult less favourably than would a non-patient; • Ensure adult participates as fully as possible, and provide information and support to facilitate this; • Have regard to adult's abilities, background, and characteristics; • Reciprocity; • Have regard to other options available. <p>Under 18 – welfare of the child</p>
Duty to Inquire and Investigate	<p>Councils have duty to make inquiries:</p> <ul style="list-style-type: none"> • If they know or believe that a person is an adult at risk; and • That it might need to intervene in order to protect the person's well being property or financial affairs. 	<p>Local authorities have a duty to investigate:</p> <ul style="list-style-type: none"> • Any circumstances made known to them in which the personal welfare of an adult seems to them to be a t risk; and 	<p>Local authorities should cause inquiries to be made:</p> <ul style="list-style-type: none"> • When it appears that a person with a mental disorder aged 16 or over is in their area as and certain circumstances apply; • These circumstances include,

	ASP	AWI	MHCT
	<u>Adults at Risk of Harm</u>	<u>Adults with Incapacity</u>	<u>Mentally Disordered Adults</u>
		<ul style="list-style-type: none"> Any complaints with respect to the exercise of functions relating to the personal welfare of an adult in relation to welfare attorneys, guardians or persons authorised under intervention orders. <p>Office of Public Guardian duty to investigate financial concerns.</p> <p>Mental Welfare Commission duties to investigate under the Act.</p>	amongst others, that the person has been subject to ill treatment, neglect, some other deficiency in care or the safety of some other person may be at risk.
Inquiry or Investigation Actions	<p>In order to decide if further action is required to protect an adult at risk from harm, a council officer may:</p> <ul style="list-style-type: none"> Visit any place; Interview anyone at the place visited; When accompanied by a health professional, the health professional may conduct a medical examination of the person known or believed to 	Not specified in the Act other than duty to investigate welfare matters	Not specified in the Act other than duty to investigate. (Medical examinations not an MHO role)

	ASP	AWI	MHCT
	<u>Adults at Risk of Harm</u>	<u>Adults with Incapacity</u>	<u>Mentally Disordered Adults</u>
	<p>be an adult at risk;</p> <ul style="list-style-type: none"> The council officer may request and examine any records relating to the individual believed to be an adult at risk of harm (except health records which can only be examined by a health professional). 		
Further Actions	<ul style="list-style-type: none"> Warrant for entry Assessment order Removal order Banning order Temporary banning order 	<ul style="list-style-type: none"> Access to funds Management of resident's finances Intervention order Guardianship order 	<ul style="list-style-type: none"> Warrant for entry Warrant for detention to allow medical assessment by doctor Warrant for access to medical records by doctor Removal order Warrant to enter premises for purposes of retaking patient Emergency detention certificate Short-term detention certificate Compulsory treatment order

9.4 Working Across Legislation Flowchart



9.5 The Appropriate Adult Scheme

Context

- Our communities are made up of all ages and types of people. Each individual, whatever her/his background, ability or position, is entitled to the same level of service. In particular if she/he becomes a victim of crime or witnesses a criminal act or even, in a few cases, finds him/herself accused of committing a crime, each has the same rights as anyone else, even though her/his needs may be different.
- It is essential that all people who come into contact with the police fully understand both their rights and what is being asked of them and it is equally essential that the police understand what is said in reply.
- The Appropriate Adult Scheme has been set up, involving professional people with experience in communication with mentally disordered people. They are drawn from a wide variety of agencies including Social Work and Health.
- The term “mental disorder” includes people who are mentally ill, people with a learning disability, those with acquired brain damage and people suffering from dementia.
- The role of the Appropriate Adult, as a facilitator during any stage of police procedures, is vital in ensuring that a person with a mental disorder is no more disadvantaged than any other member of the community when she or he is with the police. If necessary the Appropriate Adult is then able, in a professional capacity, to tell a court whether that person did or did not understand what was being said to them.

An Appropriate Adult is an independent, trained individual who facilitates communication between the interviewing police officer and the interviewee.

When is an Appropriate Adult Required?

The responsibility for identifying when an appropriate adult is required rests with the police officer who is dealing with the case, who will contact the Appropriate Adult Co-ordinator.

9.6 Adult Protection Reporting Form

GRAMPIAN ADULT SUPPORT AND PROTECTION - REPORTING FORM

1. DETAILS OF PERSON COMPLETING THE FORM

Your Name:		Your Job:	
Org/Dept:		Contact Details:	
Date Form Completed:		*Payroll/CHI No:	

2. DETAILS OF ADULT AT RISK

Name:		Address:	
DOB:			
*CHI/Carefirst No:			

3. DETAILS OF CONCERN

Date and time of concern/incident:	
Location of concern/incident:	
Description of concern/incident:	
Action taken/outcome to date:	
Additional action planned:	

4. DETAILS OF ANY OTHER PARTIES INVOLVED

Name	Contact Details	Role in Incident/Concern

5. CATEGORY OF RISK

Using your experience/judgement, grade the category of risk based on what **actually happened**. Use the Risk Matrix within the ASP Policy as guidance.

Low Medium High Very High

Reasons for Risk Rating: _____

6. INCIDENT REPORTED TO: _____

Date: _____

Form sent to: _____

Copy to: Client File

Line Manager

Date: _____

Signature of person reporting concern/incident: _____

To be completed by Senior CCO/Care Manager/SW responsible for Adult Protection issues.

7. OUTCOME OF REPORT (tick as many as appropriate)

Initial Discussion with:

	Date or N/A	Name
Care Commission		
Health and Safety		
Health Professional		
Human Resources/Personnel		
Line Manager		
MWC		
Police		
Public Guardian		
Service Provider		
Other		
Recorded but NFA	Reason	

Inquiry/Assessment/Investigation Initiated Yes No Date

RIDDOR Reportable Yes No

RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995), place a legal duty on employers; self-employed people; people in control of premises; to report work-related deaths, major injuries or over-three-day injuries, work related diseases, and dangerous occurrences (near miss accidents).

Name of Senior CCO/Care Manager/SW:	
Signature:	
Contact Details:	
Date of Decision:	

* Complete if available

9.7 Record of Inquiry

Grampian Adult Protection - Record of Inquiry

Core Information

1. DETAILS OF SUBJECT

First Names:		Surname:	
Also known as:			
Date of Birth:			
Gender:		Ethnic Group:	
Address;			
Post Code:			
Home Phone:		Mobile Phone:	
Housing Status:	Own Home / Tenancy / Temporary / Homeless/ Roofless / Care Home / Supported Accommodation / Lives alone / With family (circle as appropriate)		
ID Number:	(e.g. CareFirst/ Pimms)	CHI Number:	
Legal Status (e.g. Adults with Incapacity Act Guardianship, Mental Health Act Compulsory Order) and Date of Order:	Contact details - Name of Guardian or Attorney:		
Care Programme Approach?	Y / N	Risk to workers?	Y / N
		Details:	

2. COUNCIL OFFICER

Name:			
Designation:			
Work Address:			
Post Code:			
Phone Number		E-mail Address;	
Date Inquiry Began:		Date Completed:	
Date of SSA:			

3. CONCERNS RAISED

Date:	
-------	--

NB. In all areas state if information is factual, witnessed, hearsay etc.

<p>What behaviour, allegation, complaint, circumstances or event has prompted this inquiry? <i>(Detail the nature of the behaviour or incidents which put the person at risk, e.g. the nature and extent of sexual/physical/financial abuse; the specific areas of self neglect (eating, medication, wandering)). Use body chart if appropriate.</i></p>

Who is the source of concern, and who is involved in the concerns?
When does this/do these circumstances occur – and how often? (<i>Evenings/weekends/ every day/mealtimes etc: rarely/frequently/occasionally etc.</i>)
Where does this/do these circumstances occur? (<i>Daycentre/at home/on the streets/ travelling etc.</i>)
Is there evidence that the person is subject to undue pressure? Yes / No If yes provide evidence and details of person believed to be applying pressure.
Medical assessment and/or clinical diagnosis of mental or physical illness, relevant to this inquiry.
Particular triggers or risky circumstances that heighten the concerns. (<i>e.g. when person is alone; if home carer is late; if relative makes contact/does not make contact; arrival of benefit; contact with specific person/staff member etc.</i>)
Protective factors, or circumstances, that have <u>protected</u> the subject, or <u>reduced the concern</u> in the past (<i>include here any change in subject's ability to manage these concerns</i>).
Previous known information and source (<i>e.g. careFirst, pimms, DATIX, correspondence, previous area of residence</i>).
Other information including source and date received e.g. Day Service Staff/GP/Carer etc.
Has there been a discussion with the person about information sharing? Yes / No Any comments?
Where a person does not have the capacity to consent to information being shared, has Information Sharing Without Consent Form been completed? Yes / No

4. COMMUNICATION AND CAPACITY

Date:	
-------	--

First Names:		Surname:	
Date of Birth:			
a) Has the person been assessed for any particular communication and support needs and if so what? (<i>e.g. for interpreter; advocate, appropriate adult, Makaton, sign, speech and language therapist; or as a result of dementia, head injury etc.</i>)			

b) Comment on the person's ability to make her/his own decisions about risk and safeguard her/his own well-being. <i>(Evidence any limitations, if possible.)</i>
c) Has there been a recent formal Assessment of Capacity? Yes / No If yes, detail outcome in relation to identified areas of concern.
d) Is a formal Assessment of Capacity required in relation to specific concerns identified? Yes / No Has this process been initiated? Yes / No If yes when?

5. ASSESSMENT OF ADULT AT RISK OF HARM

BASED ON THE INFORMATION GATHERED TO DATE IS THE SUBJECT OF CONCERN:

a) unable to safeguard their own well-being, property, rights and other interests?	Yes / No
b) at risk of harm?	Yes / No
c) if yes to both of the above is this because they are affected by disability, mental disorder, illness or physical or mental infirmity and are therefore made vulnerable to being harmed than adults who are not so affected?	Yes / No
If no to any or all, adult protection procedures do not apply and alternative interventions should be considered. Please state action taken in this case:	
If yes to all 3 the person is considered to be an adult at risk.	
If the person is an adult at risk do you believe that:	
a) another person's conduct is causing (or is likely to cause) the adult to be harmed? or b) the adult is engaging (or is likely to engage) in conduct which causes(or is likely to cause) harm?	Yes / No Yes / No
IF YES TO EITHER PLEASE STATE THE NATURE OF THE HARM.	
a) Conduct which causes physical harm. State nature of harm:	Yes / No
b) Conduct which causes psychological harm. State nature of harm.	Yes / No
c) Unlawful conduct which appropriates or adversely affects property, rights or interests. State nature of harm.	Yes / No

d) Conduct which causes self harm. State nature of harm.	Yes / No
BASED ON THE INFORMATION GATHERED TO DATE WHAT ACTION IS NOW REQUIRED?	
No further action, explain reasoning.	Yes / No
Further assessment under Adult Protection Procedures, (state actions planned).	Yes / No
Decision based on discussion with Care Commission, Line Manager, Police, NHS Medical Staff, MWC (please circle as applicable).	
Further non adult protection measures e.g. amend Adult Protection Care Plan, carer's assessment, referral to other agencies in child protection (state actions planned).	Yes / No

6. CHRONOLOGY OF SIGNIFICANT EVENTS

Chronology of relevant events/significant event history (attach if available; **or** list significant relevant events under: date, brief history, agencies/people involved, outcome/consequences).

Date of event	Brief detail of event	Agencies/people involved	Outcome/consequences

Record of Visit/ Interview

(Complete for each visit/interview undertaken)

Prior to the Visit/Interview

Are there any known risks to the council officer and accompanying staff? Detail: If yes what action is being taken to reduce risk to an acceptable level?	Yes / No
Is entry likely to be refused? If yes give evidence and plan of action (e.g. application for warrant).	Yes / No

Visit/Interview

Date:	Time Started:	Time Ended:
Provide reasons if any delays have occurred since initial inquiry/report of concern.		
Council Officer (name):		
Others involved e.g. staff, police, care commission and role:		
List those interviewed or present at interview e.g. subject, family members:		
Was subject willing to answer questions?		Yes / No
Were communication support needs identified in section 4 in place? If no state reason why:		Yes / No
Confirm explanation of purpose of visit given to all those involved. If no state reason why:		Yes / No
Information gathered:		

Signed as true record of visit/interview.

Council Officer: _____ Date: _____

Other Staff etc: _____ Date: _____

_____ Date: _____

_____ Date: _____

_____ Date: _____

RECOMMENDATION/ACTIONS

Date:	
-------	--

a) Is an Adult Protection case conference recommended?	Yes / No
b) Is a full risk assessment required?	Yes / No
c) Detail any <u>immediate</u> actions that <u>have already been taken</u> in order to protect, or reduce the risk (<i>include whether this situation/risk/concern has been referred to another service, or agency, and if so, with what result</i>).	
d) What future action do you recommend is taken to reduce the risk, or protect the adult being assessed? (<i>eg increased support; review of Adult Protection Care Plan; further needs assessment; change of environment/service, legal action etc.</i>) Clearly indicate who should do what and when.	

e) **What advantages and disadvantages, gains or losses to the adult's quality of life, or freedom, or independence might result from these actions?** (e.g. in the event of increased supervision, change of home, statutory intervention taking into account the principles of the Act).

f) **Risks to other people – Recommended Actions.** (Consider risks to other adults, carers; children, alleged abusers. Consider actions such as police and/or Care Commission investigation of allegations, Care's Assessment, alert to Home or Centre management in respect of other service users, additional risk assessments, referral to child protection or criminal justice.)

Any further comment from the person being assessed?

Does the person consent to share information in this assessment? Any conditions or limitations:	Yes / No
Does the information need to be shared regardless of consent? If yes complete 'Information Sharing Without Consent' form.	Yes / No
Has the content of this form been shared with the adult?	Yes / No

I confirm that I have understood the contents of this document Signature of adult: _____ (If no signature or consent not shared, state why)	Date: _____
I confirm that I have understood the contents of this document Signature of carer/guardian/PoW: _____	Date: _____
Outcome of visit/interview discussed with Manager.	Date: _____

Agreed immediate actions to be taken.	Action	By whom	Date

Signature: _____ (Council Officer) Date: _____

Signature: _____ (Manager) Date: _____

NOTIFICATION REQUIREMENTS

Agency/Person	Requirement to notify?	Dated notified
Care Commission	Yes / No	
Mental Welfare Commission	Yes / No	
Office of Public Guardian	Yes / No	
Senior Manager/Director	Yes / No	
Adult Protection Committee	Yes / No	
Child Care Agency (child protection issues)	Yes / No	
Contracts Officer	Yes / No	
Police	Yes / No	
Referrer	Yes / No	

9.8 Risk Assessment

Risk Assessment Guidance Notes

Introduction

Risk is the possibility of loss or harm occurring and the severity of that harm. Risk assessment is a process of identifying risk and evaluating whether it is acceptable or not, enabling decisions to be taken about whether new or improved risk controls are required. Effective person focused risk assessment relies on the active participation of all agencies/teams involved in the care provision arrangements. Legislation requires that risk assessment be “suitable and sufficient”. This means that the degree of effort put into risk assessment needs to be proportionate to the risk involved

Informal risk assessments are those drawing on professional and personal experience, enabling risk to be recognised and necessary precautions to be taken. These everyday judgements and decisions are an individual’s responsibility and core professional competence underpinning everything we do. Formal risk assessment is a documented evaluation of risk including potential severity of consequences and the likelihood of such an occurrence along with the preventative and protective measures in place to control the risk. The aim is to weigh up whether existing controls are adequate or whether more should be done to reduce the risk to an acceptable level through improved risk controls or contingency plans.

Assessments must be shared between all care providers to ensure the consistency of care provided and the commitment of all providers involved to implement and comply with any risk control measures agreed as essential to ensure the Health & Safety of the adult, staff, and any other persons who could be affected thereby. Although it is recognised that, for environmental or low level personal risks, the risk assessment forms may be completed by one member of staff, high level/complex risk assessments must be completed by a multi-disciplinary/agency group.

The Risk Assessment tool/form should be used to identify and evaluate all significant problems associated with the adult and her/his care programme and to record all agreed control measures necessary for the safe and effective implementation of the care programme.

It is recognised that there is a challenge to balance the positive benefits of taking risks with protection. There will always be the debate about the adult taking calculated risks and allowing/facilitating risks to be taken.

Risk Assessments can take many different formats and can be used in a wide variety of settings although, for the purposes of this policy, they fall into 3 main categories:

1. Environmental Risks, e.g. those associated with the person’s physical environment.

Risk assessments in this area should be carried out on a regular basis by care providers as recommended by Health and Safety regulations. This type of risk assessment should be recorded on a simple format (**see Risk Assessment Forms 1 and 2**).

2. Low Level Individual/Personal Risks, e.g. those associated with the adult, her/his activities or wellbeing but managed by a single care agency/provider.

Such risks may include personal safety within the home or specific health issues. This type of risk assessment should be recorded on a simple format (**see Risk Assessment forms 1 and 2**).

3. High Level/Multi-disciplinary Risks, e.g. those associated with concerns of harm or where a multi-disciplinary/agency approach is required to reduce/ manage/ share the risks.

These should take place in a multi-disciplinary/agency meeting facilitated by a professional experienced in such risk assessments. They should be recorded on **Risk Assessment Form 3**.

Risk Assessment – Form 1

This form is a tool to identify and prioritise all the specific issues under consideration. An individual member of staff can complete it. A single issue or a number of situations can be assessed. You should note if the potential risk exists or not. Form 2 should now be completed for each of the issues identified as a potential risk.

Risk Assessment - Form 2

Where a risk has been identified on Form 1 this should then be transferred to Form 2 using the same issue number. In the “risk present box” where a risk is present, you should tick the box and identify which Human Resources are at risk using the following keys -

S = staff member; C = client; O = other.

The details of the risk should be noted then the existing control measures which are currently in place should be recorded in the “existing control measures” column. In this column you should also evaluate the effectiveness of these existing measures – are the measures effective, partially effective or not effective at all. Using the Risk Assessment Matrix identify the most predictable severity of the consequences of the event in question and note this. Similarly note the level of likelihood of the event occurring. You will then be able to identify the risk rating by finding where the “likelihood” column and the “consequences” row cross over. For example, an event which is **likely** to occur which has a **moderate** level of severity of consequences has a risk rating of **high**.

Additional measures required to minimise risk should then be identified and the final risk rating completed using the same method as above.

The Risk Assessment Action Plan can then be completed. This details the actions to be carried out to ensure the additional control measures are put in place, by whom, the target date for completion and the actual date completed. Some actions may be required on an on going basis.

Where the risk rating is **medium or above** the action plan should be referred to your line manager for discussion and approval.

The action plan should also include who is responsible for reviewing the risk assessment and the target date for this.

Where the action plan has been referred to your line manager the outcome of this referral should be noted, for example, “discussed and agreed”. The line manager should sign and date the form. In doing this the line manager is agreeing with the content of the action plan and thereby accepting responsibility for managing the risk.

The Assessor should also sign and date the form.

Where the line manager can not agree to the implementation of the Action Plan e.g. due to limited resources, it should be passed to an appropriate senior manager for a decision regarding the outcome of the action plan e.g. to stop the activity, committee additional resources.

When reviews are carried out, the date it was due to happen, the date it was actually carried out and by whom should be noted in the review table. The Action Plan should be updated to take account of any changes necessary following the review. The Risk Assessment can be shared with other professionals/staff involved in an individual’s care if appropriate e.g. a risk assessment regarding swimming at an agreed facility should be shared with all those who support the individual in that activity.

Risk Assessment – Form 3

Risk Assessment Form 3 should be completed when there are high level risks and/or those associated with concerns of harm and/or where a multi disciplinary approach is required to reduce/manage/share the risks. This risk assessment form should be completed either prior to an adult protection case conference, if requested by the chair of the adult protection case conference or may be an action arising from an adult protection case conference.

It is important that those who are well acquainted with the risks are part of the Risk Assessment process. This may include professionals, hands on carers, the police, legal advisers, family members, the adult her/ himself. The person organising the risk assessment should take time to consider who should be invited to ensure that an open and honest discussion takes place. They should carefully consider the pros and cons of having family members and the adult themselves present as this may impede full discussion or may cause them undue distress.

It is essential that an experienced facilitator lead the process. It is not vital that the facilitator is independent but this can be helpful.

It might be helpful to use flip chart paper with a copy of the forms, displayed on the walls, to record the views as they are discussed. This information can then be transferred to the forms for storage and distribution.

This joint Risk Assessment is a generic process which facilitates the sharing of concerns, the agreement of how risk can be managed and the acceptability or not of the presenting risks. It is possible as part of this process, that the need for other specialist risk assessments may be identified.

The “**Context and Objectives of Assessment**” box should give a brief description of why the assessment is necessary and what is hoped will be achieved. Failure to do so can mean the risk assessment process becomes too wide and cumbersome to be useful.

Table 1 is a means of the assessment team noting all the ways in which harm could occur to the individual or others. Often this is based on gut feeling, past experience and/or prior knowledge. It is acknowledged that some of the factors influencing this are based on emotional feelings/personal feelings and the assessment team’s value base. The facilitator should ensure that all risks being recorded are relevant e.g. an incident which took place several years ago should only be considered if it has relevance to the current situation. The facilitator should also ensure that risks are discussed and recorded within an accurate context e.g. an incident of aggression by an individual with Autism Spectrum Disorder, which took place at a time when their routine was being disrupted, should not be dismissed but should take into account the context when agreeing the risk levels and control measured required.

When completing **Table 2** the assessment team should identify what measures are **currently** in place to prevent harm from occurring. This should be based on compliance with National and Professional Guidelines, best practice and incidents elsewhere. In this column you should also evaluate the effectiveness of these existing measures – are the measures effective, partially effective or not effective at all.

In order to evaluate the effectiveness of these current measures the assessment team should consider all the issues identified in Table 1 and agree on the likelihood of them occurring and the most predictable severity of consequences based on the definitions used in the Risk Assessment Criteria. This is recorded on **Table 3**. You will then be able to identify the assessed risk level by finding where the “severity of consequences” row and the “likelihood of occurrence” column cross over on the Universal Risk Criteria table. For example an event which has a **moderate** level of severity of consequences which is **likely** to occur would have a **high** risk rating. This will enable you to prioritise the problems and deal with the most significant risks properly. The assessment team should only continue to consider those with a risk rating of **medium and above**.

Table 4 is used by the assessment team to consider what other control measures can be put in place to reduce the risks identified as being **medium or above**. This could include actions/resources/guidelines etc

Table 5 is a means of the assessment team reassessing the risks in light of the additional control measures. Although the team cannot be certain of the effectiveness of the measures, they can use their training and experience to make a considered assessment. Any risks which continue to be **High or above** should be referred to a senior manager (e.g. one removed from the line manager of the service/s involved) for consideration of the action to be taken.

Table 6 is a means of the assessment team recording an action plan detailing who is responsible for taking forward the actions agreed.

The facilitator of the risk assessment should sign the form as an accurate record of the process.

Risk Assessment 1

PRELIMINARY RISK IDENTIFICATION FORM

Department/Team:		Date:		
Situation Assessed:		Ref:		
Assessors:				
Issue No	SPECIFIC ISSUE FOR CONSIDERATION	Do potential risks exist?		
		Yes	Unsure	No
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				

If “YES” or “UNSURE” to any of the above, Risk Assessment 2 MUST be completed

RISK ASSESSMENT (ENVIRONMENTAL/LOW LEVEL/PERSONAL RISKS).

In the "Risk Present" box, the person at risk is defined by : (S) = Staff, (C) = Client, (O) = Others

Risk Assessment 2

Job / Area Assessed: **Date:** **Ref:**

ISSUE NO.	RISK PRESENT PERSONS AT RISK	DETAILS OF RISK	EXISTING CONTROL MEASURES <i>Evaluate Effectiveness</i> Effective, Partially Effective, Not Effective	LIK	CONS	RR	ADDITIONAL MEASURES REQUIRED TO MINIMISE RISK	FRR

KEY: LIK = Likelihood CONS = Consequences RR = Risk Rating FRR = Final Risk Rating

Associated Assessments:

N.B. Where Final Risk Rating is "Moderate" or above, must be referred to Line Manager to agree what further action is required.

**RISK ASSESSMENT MATRIX – ADULT PROTECTION
(NHS Quality Improvement Scotland 2005)**

CONSEQUENCES

<u>Likelihood</u>	Negligible e.g. minor injury, not requiring first aid. Reduced quality of patient/client experience.	Minor e.g. minor injury requiring first aid. Unsatisfactory patient/client experience but readily resolvable.	Moderate e.g. Reportable incident (police). Significant injury requiring medical treatment/counselling Unsatisfactory patient /client experience with effects lasting less than 1 week.	Major e.g. Major incident, long term incapacity requiring medical treatment /counselling. Unsatisfactory patient /client experience with effects lasting more than 1 week.	Extreme e.g. Major permanent incapacity / death. Continuing long term effects.
Almost Certain Expected to occur frequently / in most circumstances – more likely to occur than not.	MEDIUM	HIGH	HIGH	VERY HIGH	VERY HIGH
Likely Strong possibility that likely to occur – likely to occur.	MEDIUM	MEDIUM	HIGH	HIGH	VERY HIGH
Possible May occur occasionally, has happened before on occasions – reasonable chance of occurring.	LOW	MEDIUM	MEDIUM	HIGH	HIGH
Unlikely Not expected to happen, but definite possibility exists – unlikely to occur.	LOW	MEDIUM	MEDIUM	MEDIUM	HIGH
Rare Can't believe this event would happen – will only happen in exceptional circumstances.	LOW	LOW	LOW	MEDIUM	MEDIUM

Adult Support and Protection Risk Assessment Matrix
EXAMPLES OF POSSIBLE RISK

Negligible	Minor	Moderate	Major	Extreme
Minor injury or incident with no notable injury.	Notable injury requiring first aid/medical attention.	Significant but not permanent injury.	Penetrative sexual abuse.	Death, major permanent incapacity.
Verbally insults but not threatening behaviour.	Inappropriate touching.	None penetrative sexual abuse with psychological impact.	Financial abuse leading to loss of home, significant property.	
Neglect	Financial harm with minimal impact on personal welfare.	Financial harm significantly impacting on personal welfare.		
	Repeated expressions of wish to self harm.	Significant psychological harm eg. degrading/humiliating treatment.		
	Verbally abusive and threatening behaviour	Significant and long-lasting/permanent injury.		
	Risk to other vulnerable members of the community.			

Context

The above are meant as examples only. As part of the assessment, consideration should be given to whether the harm:

- is historical or current.
- is repetitive.
- has been the result of a power imbalance.
- has been carried out by a member of staff.

Consideration should also be given to the impact on the adult and how they perceive it.

RISK ASSESSMENT ACTION PLAN

Situation Assessed:

Assessment Ref:

Item	Action	By Whom	Target Date	Completion Date
	Referral to Line Manger for any risks assessed as moderate or above			
	Organise review of Risk Assessment			

ASSESSOR

Name:

Signature:

Date:

Outcome of referral to Line Manager:

Signed by Line Manager:

Date:

REVIEW

Date Due	Date C/out	Name	Signature

N.B. If follow up actions are identified as part of review of Risk Assessment a new Action Plan should be completed.

JOINT RISK ASSESMENT FORM**HIGH LEVEL/COMPLEX RISK****Risk Assessment 3****Context and Objectives of Assessment:-**

(Define the scope of the assessment and outline the main outcomes desired)

NAME OF ADULT:**ADDRESS:****Assessment date:**

INVITEES/ DISTRIBUTION	ROLE	ATTENDED YES/NO	COPY SENT YES/NO	DATE SENT
	Co-ordinator Facilitator			

Assessment team should discuss and agree answers to the following questions:-

1. HOW COULD HARM OCCUR TO THE ADULT AT RISK OR TO OTHERS AS A RESULT OF HER/HIS CARE? (MAKE A LIST OF PROBLEMS).

CONSIDER:-	Problem	Brief Description
<input type="checkbox"/> Adult at risk	A	
<input type="checkbox"/> Staff	B	
<input type="checkbox"/> Relatives	C	
<input type="checkbox"/> Vulnerable Groups	D	
<input type="checkbox"/> Members of the Public	E	
<input type="checkbox"/> Personal/Practice reputation	F	
<input type="checkbox"/> Physical injuries	G	
<input type="checkbox"/> Psychological consequence	H	
<input type="checkbox"/> Social problems		
<input type="checkbox"/> External factors affecting programme		
<input type="checkbox"/> Internal factors affecting programme		

2. WHAT CONTROL MEASURES ARE CURRENTLY IN PLACE TO PREVENT THE HARM IDENTIFIED FROM OCCURRING?

CONSIDER:-	Problem	Brief Description
<input type="checkbox"/> Information, instruction, training, supervision, monitoring	A	
<input type="checkbox"/> Safe systems of work defined and understood (e.g. Adult Protection Care Plan)	B	
<input type="checkbox"/> Compliance with national standards and best practice	C	
<input type="checkbox"/> Suitable equipment, environment, protective equipment	D	
<input type="checkbox"/> Emergency arrangements/ contingency plans in place, understood, practiced	E	
<input type="checkbox"/> LIST THEM - It will assist in identifying any improvements required	F	
	G	
	H	

3. ARE THESE CONTROLS ADEQUATE TO REDUCE RISK TO AN ACCEPTABLE LEVEL?								
PROBLEM (indicator letter)	A	B	C	D	E	F	G	H
PROBABILITY								
CONSEQUENCE								
ASSESSED RISK LEVEL								

4. WHAT MORE COULD BE DONE TO REDUCE THE RISK?		
<input type="checkbox"/> Can you eliminate, reduce or further control the risk?	Problem (ind letter)	Additional Control Measures
<input type="checkbox"/> Improve monitoring, procedures, recording, communication, training, systems of work or organisational management		
<input type="checkbox"/> LIST IMPROVEMENTS - These, along with EXISTING CONTROLS define HOW you will REDUCE and MAINTAIN THE RISK TO A MINIMUM		
<input type="checkbox"/> Use "Risk Criteria" to ensure measures are commensurate with degree of risk.		

5. ARE THESE CONTROLS ADEQUATE TO REDUCE RISK TO A N ACCEPTABLE LEVEL?								
PROBLEM (indicator letter)								
PROBABILITY								
CONSEQUENCE								
ASSESSED RISK LEVEL								

6. HOW WILL YOU MAKE SURE THAT THE IMPROVEMENTS YOU HAVE IDENTIFIED WILL BE PUT IN PLACE AND MAINTAINED		
<input type="checkbox"/> What needs to be improved?	Additional Control Measure	Implementation / Responsibility
<input type="checkbox"/> Who will make sure it happens?		
<input type="checkbox"/> When will it be done by?		
<input type="checkbox"/> How will it be resourced?		
<input type="checkbox"/> How will you check that it continues to be done / remains in place?		

Facilitator Name Signed

Date..... (as accurate record of Risk Assessment)

Responsible Manager Name (If final risk rating is high or above)

.....

Action agreed by manager as result of Risk Assessment

.....

.....

Signed (manager)..... Date

Person responsible for co-ordinating review Review Date

9.9 Adult Protection Meeting/Case Conferences Forms

1. Invitation/Attendance Proforma
2. Carer/Adult at Risk Invitation
3. Professional/other Invitation
4. Report Proforma for Invitees
5. Meeting Agenda
6. Case Conference Agenda
7. Adult Support and Protection Care Plan Proforma
8. Securing Property Form

Adult Protection Meeting/Case Conference (Delete as applicable)

Invitation List/ Attendance

Name: _____

Date of Meeting: _____

Date of Birth: _____

Time of Meeting: _____

CareFirst/CHI number: _____

Venue of Meeting: _____

Invitation to: (name, title, agency)	Date sent	Record of Inquiry sent	Attended	Apologies	DNA	Report submitted prior to mtg	Report Tabled	Mins sent (date)	Invited to Review	AS&P Care Plan sent (date)

Key ✓ = Yes X = No

DNA – Did Not Attend

Our Ref:

20 April 2010

Dear (Carer/Adult at Risk)

Re: **Adult Protection Meeting/Case Conference** (delete as applicable)

A decision has been taken to hold an Adult Protection Meeting/Case Conference (delete as applicable) to be held _____ about you/in respect of _____ (delete/add details as applicable). It has been called because of concerns that have been brought to our attention. It's purpose is for those who know you/Adult at Risk name (delete/add details as applicable) to share information which will enable decisions to be made to safeguard your/Adult at Risk name (delete/add details as applicable) welfare.

The meeting is being held under the Grampian Interagency Policy and Procedure for the Support and Protection of Adults at Risk of Harm.

You can take someone with you for support for example a friend or relative. If you would like an independent advocate please talk to (add details).

Please confirm your attendance to _____

Please do not hesitate to contact me if you wish any further information.

Yours sincerely

Chair

Our Ref:

20 April 2010

Dear

Re: Adult Protection Meeting/Case Conference (delete as applicable) regarding

Name: _____
Date of Birth: _____
Address: _____
Carers Name and Address: _____
(if relevant/delete) _____
Venue: _____
Venue Date: _____
Venue Time: _____

Under the Grampian Interagency Policy and Procedure for the Support and Protection of Adults at Risk of Harm, you are invited to the above Adult Protection Meeting/Case Conference (delete as applicable), as it is believed that you have knowledge which may contribute to the discussion/outcome. Please confirm your attendance by telephone or email (add details). If you are unable to attend, please provide a brief report of your knowledge and/or involvement with the above adult, outlining any concerns you may have regarding their wellbeing (a proforma is attached for your convenience).

Please note that, under the Grampian Information Sharing Policy, this information will be shared with other professionals at the Adult Protection Meeting/Case Conference (delete as applicable) unless clear reasons exist which dictate otherwise for example disclosure would place others at risk of harm.

Yours sincerely

Chair

Enclosure:

Report Proforma

Adult Protection Meeting/Case Conference Report (delete as applicable)

Please note, this report has been prepared in accordance with the Grampian Interagency Policy and Procedure for the Support and Protection of Adults at Risk of Harm. This report contains confidential information and has been prepared specifically for the purposes of Adult Protection. It must not be copied or quoted without the consent of the author or relevant manager.

Regarding:

Name: _____

Date of Birth: _____

Address: _____

Brief description of involvement with above adult.

Outline any concerns – historical or current.

Summary of measures currently being provided by you/your agency to support and/or protect the adult.

Additional relevant information.

Signature

Name
Designation
Agency

20 April 2010

Adult Protection Meeting

Agenda

1. Introduction and apologies.
2. Purpose of the Meeting.
3. Summary of concerns.
4. Existing services and supports in place and available.
5. Consideration of decisions/recommendations/actions including:
 - 5.1 is a full investigation required?
 - 5.2 should the Police/Care Commission/Mental Welfare Committee/Public Guardian/employer be contacted (if not already done so)?
6. Immediate action required to ensure adults wellbeing.
7. Adult Support and Protection Care Plan (if required).
8. Future monitoring/review arrangements.

Adult Protection Case Conference

Agenda

1. Pre-Meeting – Professionals only if Adult/Carer to be present
 - 1.1 Introduction and apologies.
 - 1.2 Chair confirms if all information can be shared and provides any clarity required regarding information sharing principles.
 - 1.3 If relevant, professional only information shared at this time.
 - 1.4 Professionals notified of ability to adjourn meeting and agree how this should be signalled.
2. Full Meeting
 - 2.1 Introduction and apologies.
 - 2.2 Purpose of Case Conference.
 - 2.3 Where Adult/Carer not in attendance, Chair confirms who has responsibility for discussing outcome of Case Conference with them. When Adult/Carer present, Chair confirms that they have support or, if not, allocates a professional who is responsible for discussing outcome with them following the meeting.
 - 2.4 Summary of Record of Inquiry and Risk Assessment including existing services and support available.
 - 2.5 Summary of other reports (both written and verbal).
 - 2.6 Adult/Carer invited to contribute.
 - 2.7 Discussion of information presented.
 - 2.8 Consideration of decisions/recommendations/actions required including application for Protection Orders and reasons for above.
 - 2.9 Note any dissenting views.
 - 2.10 Adult Support and Protection Care Plan agreed (including timescales and responsible officers).
 - 2.11 Contingency Plan (in the event of a breakdown of Adult Support and Protection Care Plan).
 - 2.12 Review date and responsible officer.

Adult Support and Protection Care Plan

Name: _____

Date of Birth: _____

Carefirst/CHI number: _____

INITIALLY AGREED ON: _____

UPDATED ON: _____

Identified Need (including potential risk)	How need will be met (including the frequency and duration of visits)	Name and Discipline of staff member with lead responsibility	Planned date of completion	Date of completion	Review date

Signed Chair: _____ Date: _____

Signed Adult (if appropriate): _____ Date: _____

Signed Legally Appointed Representative (if applicable) : _____ Date: _____

Review Officer: _____ Review Date: _____

Care Plan to be sent along with minute of Adult Support and Protection Meeting/Case Conference (Delete as appropriate) to all those in attendance or with a future role in Adult Support and Protection.

9.10 Securing Property Form

Adult Support and Protection

Property

To be completed when any action taken to protect an adult at risk of harm places their property at risk.

Name of Person Completing Form:	
Name of Individual:	
Address:	
Circumstances:	
Property in Question:	
Action Taken to Protect Property:	
Associated Cost:	
Approved by: (Snr CCO/LM/SW)	
Date:	
Cost Code:	

Returning Property (if appropriate)

Property Returned (Itemise):	
Date Returned;	
Name of Person Returning Property:	
Signature:	
Name of Witness:	
Signature:	

9.11 Letter Confirming Recording of Concern Reported

Standard Letter (Public) – Acknowledgement of Concern Reported

Dear Sir/Madam

Re: Adult Protection Concern - Name of person thought to be at risk/date of referral

Thank you for contacting Moray Council/Aberdeenshire Council/Aberdeen City Council regarding the above.

I can confirm that your concerns have been recorded and will be followed up according to the Grampian Supporting and Protecting Adults from Harm Policy.

If you have any further concerns please do not hesitate to contact (details of appropriate person to contact).

Yours faithfully

9.12 Outcome of Investigation Letter

Standard Letter (Care Commission/Police) (where case is NOT PROGRESSING to Adult Protection Meeting or Case Conference).

Dear Sir/Madam

Re: Adult Protection Concern - Name of person thought to be at risk/date of referral

Thank you for contacting Moray Council/Aberdeenshire Council/Aberdeen City Council regarding the above.

I can confirm that the concerns have been recorded and investigated/inquiries made (delete as appropriate). Based on the findings of this inquiry/investigation we have concluded that no further action is required/the case will continue to be monitored and reviewed/the care plan has been reviewed/other.

If you have any other queries, please do not hesitate to contact me.

Yours faithfully

9.13 Useful Contact Details

<p>Grampian Police</p> <ul style="list-style-type: none"> • Service Centre (Routine Contact) • In case of emergency • Family Protection Unit 	<p>0845 6005700 999 01224 306886</p>
<p>Local Authorities Aberdeen City Council Aberdeenshire Council Moray Council</p> <p>Adult Protection Teams</p> <ul style="list-style-type: none"> • Aberdeen City Council Out of Hours Email: AdultProtectionUnit@aberdeencity.gov.uk • Aberdeenshire Council Out of Hours Email: adultprotectionnetwork@aberdeenshire.gov.uk • Moray Council Out of hours Email: adultprotection@moray.gov.uk 	<p>01224 522000 0845 608 1207 01343 543451</p> <p>01224 264266 01224 693936 01651 871246 0845 84 000 70 01343 567027 0300 123 0897</p>
<p>NHS Board and Hospitals Grampian</p>	<p>0845 456 6000</p>
<p>Other Bodies Mental Welfare Commission Public Guardian Care Commission (Aberdeen City) Care Commission (Aberdeenshire) Care Commission (Moray) Advocacy (Aberdeen City) Advocacy (Aberdeenshire) Advocacy (Moray)</p>	<p>0131 2226111 0131 2226111 01224 793870 01224 793870 01343 541734 01224 332314 01467 651604 01343 559649</p>

http://www.aberdeenshire.gov.uk/about/departments/support_protect_adults_harm.asp

9.14 Review/Comments

Grampian Interagency Policy and Procedures: Supporting and Protecting Adults from Harm

Please note any issues, suggestions etc resulting from the use of this document.

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Name:

Organisation:

Address:

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Please return form to:

Anne Slee
Integrated Learning Disability Service Manager
Community Learning Disability Team
Highfield House
Northfield Terrace
Elgin
IV30 1NE

or

e-mail anne.slee@moray.gov.uk