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**1. Purpose**

1.1 This guidance is intended for staff employed within the Renfrewshire Health and Social Care Partnership (HSCP) who are directly involved in work subject to the Adult Support and Protection (Scotland) Act 2007 (the Act).

1.2 This document aims to complement the following documents by providing more localised working guidance to Council Officers, their managers and others engaged directly in adult support and protection work:

* Renfrewshire Interagency Procedures 2024
* The Adult Support and Protection (Scotland) Act 2007 and
* The National ASP Code of Practice 2022 (Scottish Government)

1.3 The guidance focuses on the actions required following:

* Section 3: The referral
* Section 4: Inquiries Without and With the use of Investigatory Powers
* Section 5: Investigatory Powers, Who May Undertake the Visit/Interview:
* Section 6: Adult Protection Case Conferences, Core Groups and Reviews.
* Section 7: Non-ASP, multi-agency meetings
* Section 8: Management of Issues relating to coercion, control, and undue pressure.
* Section 9: Re: Request for Information from Financial Institution, Section 10 Adult Support and Protection (Scotland) Act 2007 (ASPA):
* Section 10: Non-co-operation from those assessed requiring Protective measures and governance for case closure.
* Section 11: ASP Code of Practice 2022 (Scottish Government):   
    
  Additional Main Themes for Noting / Action
* Interpretation of the 3-point criteria / Capacity
* Application of 3-point criteria and Trauma Informed lens.
* Examination of Records
* Multi-Agency Chronologies
* Section 12: Hoarding.
* Section 13: Investigative activity involving in-house services, maintaining impartiality.
* Section 14: Professional disagreement.
* Section 15: Relationship between Risk based practice, Procedures & Legislation
* Section 16: 16. Guidance for Care at Home, Day & Residential Care Staff
* Section 17: Large Scale Investigations

*Note: All actions subject to the Act must be recorded on the Council’s electronic recording system. (Presently ECLIPSE. Separate guidance available).*

**2. Background**

2.1 The Adult Support and Protection (Scotland) Act 2007 defines an 'adult at risk' as an individual aged 16 years and over who is, or is believed to be:

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

2.2 An adult is at risk of harm if:

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

‘Harm’ includes all harmful conduct and includes conduct which causes physical harm, conduct which causes psychological harm, unlawful conduct which appropriates or adversely affects property, rights or interests and conduct which causes self-harm.

2.3 The Act places a duty on local authorities to make inquiries about an individual’s well-being, property or financial affairs where the local authority knows or believes that the person may be an adult at risk and may require intervention needed to protect him or her from being harmed. To make inquiries, the Act authorises Council Officers to carry out visits, conduct interviews or require health, financial or other records to be produced. It also allows a health professional to conduct a medical examination where necessary.

2.4 Any intervention must give due consideration of the principles of the Act. Intervention should therefore:

* provide benefit to the individual.
* be the least restrictive to the adult’s freedom of the range of options available.
* have regard to the wishes and feelings (past and present) of the adult at risk.
* consider the views of significant others in the adult’s life.
* encourage the adult to participate as fully as possible and give information and support to help them where this is required.
* not treat the Adult less favourably than other adults in a comparable situation.

2.5 Renfrewshire HSCP operational staff within the Localities, Mental Health, Learning Disability, Sensory Impairment and Alcohol and Drugs Services have primary responsibility for leading all inquiries under the 2007 Act. Concerns regarding any individual or agency should be made via the Adult Services Referral Team (ASeRT) to the appropriate operational team.

2.6 No other referral process is to be used while recognising that internal communication may take place between Team Managers as appropriate where the referral is internal to the overall adult care service. However, this must be followed up by the formal referral via ASeRT immediately. In doing so there is a single referral and audit process.

**3. Referral**

3.1 All ASP referrals received by ASeRT are recorded on the Electronic Recording System (presently Eclipse) before being sent to the appropriate team for response. If a referral is not received via ASeRT, the responsible Team Manager is required to contact ASeRT immediately to record the referral.

3.2 If an Adult Welfare Concern is received and the responsible Team Manager believes that it should be treated as an Adult Protection referral, they should make then referral via ASeRT.

3.3 Inquiry with the use of Investigatory Powers should be allocated and proceed based on the following principles:

* The case is allocated to the most appropriate team based on the information available about the person at the time of referral. That will include historical involvement with a team and whether they are on a waiting list already awaiting a service from a specific team. This will focus on continuity and consistency of approach.
* The case is allocated on the basis of person’s home address, not where the incident may have occurred.

3.4 If a referral is routed to the incorrect team, the responsible Team Manager should return the referral to ASeRT for reallocation to the correct team and record the action on Eclipse. ASeRT will then pass the referral to the correct team.

3.5 If there is any dispute regarding responsibility for the referral this should be discussed by the relevant Team Managers asap. If a resolution is not reached this should be escalated to the Operational Manager to make the decision. This process should take during the working day of the referral, so an appropriate response is not delayed. In the absence of a speedy resolution the Team Manager holding the referral should take appropriate action to confirm that the matter is being dealt with.

3.6 The Locality Teams operate duty systems to address referrals subject to the Act. The Paisley and West Renfrewshire Teams (including Sensory Impairment Team (SIT)) will support and cover for each other in terms of council officer/Team Manager provision and availability of Case Conference Chairs. The Learning Disability/Mental Health and ADRS similarly operate a system for responding to ASP referrals and will support and cover as required.

3.7 **Note:** The referral process will be subject to review during 2024 to reaffirm roles and responsibilities, process, performance, self-evaluation, and audit requirements.

**4.**  **Inquiries Without and** **With the use of Investigatory Powers**

4.1 The Adult Support and Protection (Scotland) Act 2007 Code of Practice, July 2022(ASP COP 2022) provides an update on this matter, summarised as follows:

* An inquiry does not need to be undertaken by a Council Officer although in Renfrewshire it is considered to be best practice to use a Council Officer if available in terms of continuity should the matter lead to investigatory powers being used.
* Only when specific investigatory powers need to be taken is there a requirement for a Council Officer to be involved. These actions relate to when there is a need for a visit and direct contact with the adult for interview or medical examination, or for the examination of records. Good practice would ensure that a Council Officer is involved in overseeing or supervising all activity relating to the Act.’
* An inquiry, insofar as it does not relate to any of these actions, will not need to be undertaken by a Council Officer, and can include the collation and consideration of relevant material, including consideration of previous records relating to the individual, and seeking the views of other agencies and professionals (this is known as an ‘Inquiry without use of investigatory powers’). However, it is essential that staff understand the difference between collating relevant information as against asking questions about the allegation that has been made.
* ‘If desktop inquiries (which include telephone calls to other professionals and the person at risk) to collate core information do not provide sufficient information to determine whether the adult is at risk, then further steps should be taken to allow for such a determination to be made. If this involves a visit and direct contact with the adult for interview or medical examination, or for the examination of records, the Act requires that a Council Officer must be involved (‘Inquiry with use of investigatory powers’
* The adult is informed of their rights, as soon as a visit and any form of discussion takes place.

**Note:**

* It is a risk that people will want to discuss the detail of the allegation if a non-Council Officer contacts them, and it is essential in such circumstances that the non- Council Officer does not stray into asking detailed questions that should limited to the role of the Council Officer. Within Renfrewshire it is the case that non- Council Officers will be qualified Social Workers awaiting their formal ASP training and therefore are expected to use their professional judgement on how they immediately manage such a scenario.

4.2 On receipt of a referral the local authority has a statutory duty to make inquiries subject to Act. The purpose of Inquiries is to ascertain whether the adult meets the 3-point criteria to be considered an adult at risk and if further inquiries subject to the Act or other action is required to protect them from harm. All referrals should be reviewed by the receiving Team Manager on the day of receipt to check the category of harm is correctly recorded, consider the appropriate response, and ensure that immediate action to ensure the safety of the adult is taken should this be required.

**Note:**

If an adult is the subject of 3 or more separate ASP referrals (as against duplicate referrals i.e. same incident but different referring person/agencies) in a 6-month period, the Team Manager should consider the use of investigatory powers. Alternatively, a multi-agency Case Discussion can be convened to consider the matter by the Operational Manager. The outcome of the decision either way should be recorded on Eclipse.

* Acknowledgement of receipt of the referral should be sent to the referrer within five working days.
* The Eclipse business process should be followed and completed within 5 working days for inquiries Without use of investigatory powers.
* The Team Manager should identify an appropriate worker depending on whether the matter is considered to be ‘Inquiry with or without use of investigatory powers and information should be gathered for consideration; this will include contacting the referrer, gathering information from Social Work and other records, contacting other agencies and the GP (General Practitioner), and contacting the adult. The inquiry should consider whether capacity is an issue and if alternative legislation such as the Adult with Incapacity Act 2000 or the Mental Health (Care and Treatment) Scotland Act 2003 is relevant. Note, the Code of Practice is explicit in stating that capacity should not be used as a single determination issue in deciding whether ASP applies rather it should be used in determining whether the person is capable of making decisions in relation to the management of risk, and the consent to be interviewed and medically examined.
* Council Officers and Team Managers should be aware of the need for immediate referral to and discussion with Police Scotland where a criminal offence may have occurred. If a physical or sexual assault has occurred any medical examination (other than emergency medical treatment) should be carried out under the direction of Police Scotland.
* The Police Scotland Renfrewshire / Inverclyde Concern Hub is the first point of contact where there is no identified police officer and information is sought during an inquiry or investigation.

**Address**: [RenfrewshireInverclydeConcernHub@scotland.police.uk](mailto:RenfrewshireInverclydeConcernHub@scotland.police.uk),

**Telephone:** 0141-305-4606

* The Care Inspectorate must be advised if the inquiry involves deficiency of provision from a registered care service.
* If there is a change in the legal status during the progress of an inquiry or investigation the Eclipse record must be updated.
* If the adult is contacted s/he should be informed of their rights subject to the Act. This includes informing them of their right to advocacy services and assisting with referral if required.
* The relevant Council Officer should discuss the progress of the inquiry with the Team Manager, as necessary. Following conclusion of the inquiry the Council Officer must enter information into Eclipse via the ASP Inquiry form. This should summarise the information, include relevant details of the referral/any previous referrals, information obtained from other sources including the adult, any actions taken and specifically address the capacity of the adult. The Council Officer should record whether the 3-point criteria have been met and recommend any further action.

4.3 Possible actions are:

* the 3-point criteria have been met and further investigative activity subject to the Act is required to protect the adult subject to the Act is required to protect the Adult.
* The 3-point criteria have been met but no further action subject to the Act is required. The Adult may/may not require further intervention which may include allocation to Social Work or other staff, further assessment, or referral to another agency/service.
* the 3-point criteria have not been met and no further action subject to the Act is required. The Adult may/may not require further intervention which may include allocation to Social Work or other staff, further assessment, or referral to another agency/service.

4.4 The Team Manager should meet with the Council Officer to discuss the inquiry and their assessment and recommendations. They will authorise and record the outcome of the inquiry electronically on Eclipse, confirming their assessment of the matter and any further actions to be taken.

4.5 Initial inquiries without use of investigatory powers should be completed within 5 working days. Where this is not possible the reasons for delay should be recorded on Eclipse and the Operational Manager notified.

**5. Inquiry with the use of Investigatory Powers: Who May Undertake the Visit/Interview?**

5.1 Inquiry with the use of Investigatory Powers will be undertaken by a Council Officer and a second worker. The Council Officers must be a qualified professional, registered Social Worker, Nurse or Occupational Therapist who is employed by Renfrewshire Council and who has undergone adult protection training for Council Officers specified by Renfrewshire Council. The second worker, as noted, should be the most appropriate person (such as an allocated or previously allocated worker and may be from any professional discipline or employed by a different organisation e.g., NHS. If the second worker is not a Council Officer, they should have completed Renfrewshire Council specified 2nd worker training (Investigative Interview training).

5.2 Only a Council Officer, as defined in Section 53 of the Act and who meets the requirements of the Order described previously, can undertake a visit. However, as noted, the Council Officer may be accompanied by another person. A joint visit with another person could assist the investigation in a number of ways, for example by:

* allowing the Council Officer to jointly investigate concerns with, for example, a key worker, a Police Officer, or Health Professional.
* assisting an assessment of the risk to the adult, such as with a general practitioner, community nurse, key worker or other person already known to the adult and any other members of the household.
* assisting in record taking of the interview, and potentially being available as a second witness in the event of court proceedings; and
* assisting communication with the adult (or any other member of the household) by being accompanied by an interpreter in British Sign Language, lip speakers, a Makaton communicator, a deaf-blind communications interpreter, or a language interpreter where English is not the visited person’s first language.’

In any case the 2007 Act permits a Council Officer to be accompanied by any other person whom he or she believes would be of assistance in carrying out the investigation’.

5.3 Interviews:

Adult's rights during an interview Section 8(2) provides that the adult is not required to answer any questions, and that the adult must be informed of that fact before the interview commences. The adult can choose to answer any question put to them, but the purpose of this section is to ensure that they are not forced to answer any question that they choose not to answer. However, seeking the consent of the adult to be interviewed should not be a matter of simply advising that they are not obliged to answer.

Good practice would be to ensure that the adult is clear regarding the purpose of the interview and is given reasonable opportunity and support to answer questions whilst respecting their right not to.

In any interview, as disused above under the section relating to capacity, gaining the consent of the adult to be interviewed should be the norm. The Council Officer (CO) should consider the adult’s capacity and promote the adult’s participation in the interview.

Some or all of the following factors may be considered where there is doubt about the adult’s mental capacity:

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

5.4 What is an interview?

Section 8 of the 2007 Act permits a Council Officer (CO), and anyone accompanying the CO officer, to interview an adult in private within the place being visited, as part of undertaking AS & P inquiries- with use of investigatory powers.

This power applies regardless of whether a sheriff has granted an assessment order authorising the Council Officer to take the person to another place to allow an interview to be conducted.

The purpose of an interview is to enable or assist the council to gather information directly from an individual to assist the council in determining if the individual is at risk or harm, and/or what action may be required. The interview may include:

* establishing if the adult has been subject to harm.
* determining whether the adult is at risk of harm.
* establishing if the adult feels their safety is at risk and from whom.
* discussing what action, if any, the adult wishes or is able to take to protect themselves; and
* discussing what action, if any, others can take to protect the adult.

The Council Officer, and the person accompanying them, conducting interviews will need to ensure appropriate recording of the content of the interview and any decisions made by the adult, including those about who attends e.g. a family member.

5.5 Presence of others at interviews

It is good practice to ask the adult if they would wish another person to be present during an interview to support them; the offer of Advocacy services may be considered as appropriate and should be offered.

Whether or not the adult should be interviewed in private will be decided on the basis of whether this would assist in achieving the objectives of the investigatory activity. The Council Officer or persons accompanying them may decide to request a private interview with the adult where:

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

5.6 Interviews with others.

Section 8 of the 2007 Act allows a Council Officer to interview any adult found in a place being visited under Section 7. For example, another person who shares their home with the adult or a paid carer in a regulated care setting- if not implicated in the harm.

Section 8(2) provides that persons interviewed on this basis have the same rights as the adult at risk. They are not required to answer any questions and must be informed of that fact before the interview commences.

As with the adult at risk, the consent of the person to be interviewed should not be a matter of simply advising that they are not obliged to answer- as discussed above.

5.7 Virtual Interviews or meetings.

Circumstances may arise where an interview would not be undertaken as a physical visit to meet with the adult. The experience of the coronavirus pandemic in 2020 and 2021 showed that there were options for the use of telephone and new technology to allow for virtual meetings with both individuals and wider groups. Such options should only be used if there are strong reasons to do so (largely related to safety and infection control concerns arising out of a physical visit), and these reasons should be recorded.

It is reasonable to assume that a virtual encounter with an adult thought to be at risk of harm, for the purposes of inquiries into their circumstances, should be regarded as an interview in exactly the same way as if it had been a physical encounter. This means that in such cases all the requirements of a physical visit should still be met, including the council officer providing evidence of their authorisation.

The Council Officer’s power to interview an adult found in a place being visited, is a power to interview them in private. Where such virtual meetings and interviews do take place, council officers should be alert to whether there may be other people in the room of the person being interviewed who may therefore be in a position to influence by word or gesture the responses from the adult.

5.8 Communication Difficulties.

If communication is a problem or barrier e.g. due to English being a second language, sensory impairment and/or the need for special aids, the appropriate communication equipment and/ interpretation service should be identified and offered.

Whenever possible, the adults should be asked which format for communication they prefer. All aids and adaptations which can support and enable communication, as well as 'human aids to communication' such as British Sign Language interpreters, lip speakers, Makaton, and deaf-blind communicators should be considered. Where possible, materials should also be available in alternative formats such as easy read, large print, audio tape, Braille and computer disc, and use made of “read aloud” or equivalent software.

This should be considered at the planning stage of initial referral as it allows any obstacles to be identified at an early stage and action to be taken to allow progress. The adult should be provided with any assistance or material appropriate to their needs to enable them to make their views and wishes known. Reasonable adjustments should be made to support the adult's needs wherever identified. Consideration should also be given to the surrounding environment. This can affect communication due to, for example, noise levels, provision of loop systems or lighting.

**6. Medical Examination**

6.1 A Medical Examination includes any physical, psychological, or psychiatric assessment or examination. The examination can take place either at a place being visited under Section 7 of the Act, or at the premises where the adult has been taken under an Assessment Order granted under Section 11 (further information on Protection Orders below).

6.2 Who may conduct a medical examination and what is its purpose?

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

* a doctor,
* nurse,
* midwife

(NB It is normally the case that doctors would carry out a “medical examination,” nurses and midwives would carry out an assessment of current health status).

6.3 A medical examination may be required as part of inquiry activity for a number of reasons including:

* the adult’s need of immediate medical treatment for a physical illness or mental disorder.
* to provide evidence of harm to inform a criminal prosecution under police direction or an application for an order to safeguard the adult.
* to assess the adult’s physical health needs; or
* to assess the adult’s mental capacity. Examples of circumstances where a medical examination should be considered include:
* the adult has a physical injury which he or she states was inflicted by another person.
* the adult has injuries where the explanation (from the adult or other person) is inconsistent with the injuries and an examination may provide a medical opinion as to whether or not harm has been inflicted, or whether there are concerns around self-harm.
* there is an allegation or disclosure of sexual abuse, and the type of assault may have left physical evidence (following local procedures for liaison with the police).
* the adult appears to have been subject to neglect or self-neglect and is ill or injured and no treatment has previously been sought.

6.4 Considering the adult’s wishes with regard to a medical examination.

* Section 9(2) of the Act states that the person to be examined must be informed of their right to refuse to be examined before a medical examination is carried out.
* In an emergency and where consent cannot be obtained doctors can provide medical treatment to anyone who needs it, provided that the treatment is necessary to save life or avoid significant deterioration in a patient’s health.
* Where it is not possible to obtain the informed consent of the adult because they lack the mental capacity or have difficulty communicating in order to provide consent, the council should check local records to ascertain whether the person has completed a welfare power of attorney with the relevant powers. Where no guardian or attorney has such powers, consideration may be given to whether it is appropriate to use the provisions in the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003.

**7****. Examination of records**

7.1 The purpose of accessing records is to enable or assist the council to decide whether it needs to do anything in order to protect an adult at risk of harm.

7.2 Subject to Section 10 of the 2007 Act a Council Officer may require any person holding health, financial or other records relating to an individual whom the officer knows or believes to be an adult at risk, to give the records, or copies of them to the officer. This includes records held in audio, visual or other formats.

7.3 Section 10 refers to existing records held by a professional or organisation rather than information created specifically to meet a request.

7.4 The type of records to be inspected will depend on the type of harm suspected and will need to be judged on an individual basis. Any information requested must be relevant. Records should be accessed, and information shared only where disclosure will provide benefit to the adult which could not reasonably be provided without such an intervention.

7.5 The ASP Codes of Practice makes clear that it is permissible for agencies to share information when the request arises from a Section 4 inquiry.

7.6 Does an adult have to consent to access to records?

If possible, the individual’s consent should be attained prior to sharing information but, for the avoidance of doubt, where disclosing information to the appropriate authorities seeks to address a perceived risk of harm to that individual, it is in the public interest to do so. This legal duty applies to all employees, officers of the relevant public bodies, and overrides any general duty of confidentiality.

7.7 Who may access and inspect records?

* Section 10 (4) allows for records given to the Council Officer to be inspected by the officer and any other person whom the officer considers appropriate in relation to the content of the records.
* Section 10 (7) defines health records as records relating to an individual’s physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual.
* The Council Officer, or any other person whom the officer considers appropriate, may inspect health records only for the purpose of determining whether they are health records. In the case of health records, the council officer is empowered by the Act to identify, take, or take copies of, medical records held by a service but having obtained them, must ensure they are interpreted by a health professional.

7.8 How may records be accessed?

* A requirement to provide records may be made by the Council Officer during the time of a visit to the person holding the records or at any other time. The Council Officer should be able to demonstrate to the record holder that they require records to be given under section 10.
* If a request for information is made at a time, other than during a visit, it must be made in writing. If the requirement is transmitted electronically, it will be treated as having been made in writing, if it is received in a legible form and is capable of being used for subsequent reference. Usually only the relevant parts of a record will be copied to be given to the Council Officer. It is essential that copies of records are treated with the same degree of confidentiality as the original records.
* Good practice would be to discourage the use of original records except in circumstances where verifying the wording as it appears on the original source document (and is therefore verifiably unaltered) is pertinent to the investigatory process (for example if neglect has been alleged in a registered care setting).
* It would be good practice for agreement to be reached with the record holder, when records are obtained, on how their records are to be treated. For example, whether copies of records should be kept for the minimum length of time necessary and then returned to the original record keeper or whether they should be destroyed.

7.9 Must the record keeper comply with a request for access?

Obstruction: Section 49 provides that it is an offence to prevent or obstruct any person from doing anything they are authorised or entitled to do under the Act, without reasonable excuse. It is also an offence to refuse, without reasonable excuse, to comply with a request to provide information made under Section 10 (examination of records etc.).

**However**, if the adult at risk prevents or obstructs a person or refuses to comply with a request to provide access to any records, then the adult will not have committed an offence.

A person found guilty of these offences is liable on summary conviction to:

* a fine not exceeding level 3 on the standard scale; and/or
* imprisonment for a term not exceeding 3 months.

**8.**  **Multi-Agency risk assessment.**

8.1 Risk Assessment.

The definition of an adult at risk requires an assessment to be made about the risk of harm to the person at the outset. Many referrals that are made concerning people who are believed to be at risk of harm will result in a determination that they are not at risk of harm and therefore require no further action under the provisions of the Act. This does not preclude other support or involvement through other relevant legislation, or alternative services to respond to the individual’s needs.

For other adults, the inquiries will determine that they are at ‘risk of harm’ and will need continuing assistance with their support and protection. Such a determination will follow from an assessment process, which should involve all relevant agencies. Some cases will involve few or single agency involvement. Others will require the involvement of a wide range of agencies.

In all cases the assessment process should be based on information supplied by all relevant agencies. This will be coordinated through the Council, with the Council Officer having a key role in the process.

In Renfrewshire, all cases progressing to an AS & P Case Conference require a Risk Assessment (Investigatory Report, previously known as AP2,) to be completed.

A risk assessment could be completed in other situations, where this is assessed to be appropriate following discussion with the appropriate Social Work Manager.

8.2 The risk assessment will concentrate on the following:

* an assessment of whether the adult is at risk of harm.
* an assessment of the nature and severity of any risks identified, including when and where the adult may be placed at risk and an identification of the factors that will impact on the likelihood of risk.
* provide a clear overview of the risks, and protective factors.
* an analysis of risk and the adult’s ability to ‘safeguard’ themselves are key.
* information pertaining to significant others in the adult’s life.
* the adult’s views.
* consider whether the adult requires an AS & P Protection Plan (that can be single or multi-agency), that identifies actions and supports that will eliminate or reduce the risks identified.
* reviewing whether the adult continues to meet the criteria for an adult at risk of harm, and if not whether there are other supports that will still be required out-with the provisions of the Act.

To ensure robust risk assessment, any reports generated as part of, or at the conclusion of, inquiries, including use of investigative powers, should include all relevant information and a chronology, to be completed by the Council Officer.

**9. Muti-Agency ASP Planning Meetings:**

9.1 If it is established that a formal inquiry subject to the Act is required, this should be carefully planned. A formal Multi-agency Planning Meeting (multi-agency as appropriate) may be helpful in the following circumstances and is considered to be best practice: where the risks to the adult (or others) appear to outweigh the adult’s wishes and there is a need to override a refusal of consent.

* where the situation is complex
* where there is a risk of significant harm to the adult or others.
* where difficulties are anticipated in accessing the adult or harmer or in setting up interviews.
* where there is a criminal investigation and/or a need to preserve evidence.
* where it is believed that more than one person is causing harm, or the harmful behaviour may involve more than one adult at risk.

9.2 The Planning Meeting:

* should take place within 3 working days of the referral and be treated by all agencies with the greatest priority.
* will not involve either the adult or his/her family or the alleged harmer to allow professionals to plan the inquiry in an open manner with maximum information made available to those attending. However, the views of the adult (if known) as well as issues regarding consent and capacity should be central to the discussion and referral to advocacy services should be considered. The adult concerned may or may not be advised of the Planning Meeting depending on whether to do so would be detrimental to the inquiry.
* will clarify and agree roles and responsibilities of those involved in the inquiry and set a clear timescale for completion. A Planning Meeting forms part of a formal inquiry, and a minute of the meeting will be circulated to those attending and any other key professionals.
* Planning meetings should have a formal minute produced by Business Support.

9.3 Where there is evidence of a criminal offence having been committed unless otherwise directed by the Crown Office Procurator Fiscal Service, the Police will lead the investigation at this stage.

9.4 Where harm to an adult at risk has occurred in a registered establishment or hospital setting any action should be co-ordinated with the Care Inspectorate or NHS.

9.5 Where a formal planning meeting is not required the Team Manager; Council Officer and any second worker should meet to agree the necessary actions of the inquiry. Some key areas to consider as part of the investigatory activity are:

* the immediate safety of the adult at risk
* agreeing the Council Officer who will lead inquiry and the second worker.
* discussing and agreeing the roles and tasks of the Council Officer and second worker. This will include discussing what interviews, visits and further information is required and who should complete.
* the rights of the adult
* referral to advocacy
* considering the role of other statutory agencies and the private/voluntary sector
* considering the need to gain access to records, e.g., health or financial records, as part of the investigatory activity.
* whether medical examination required

9.6 Investigatory Powers and activity (the inquiry and risk assessment report) should normally be completed within a maximum of 18 working days of the initial referral to allow the Initial Case Conference to proceed on the 20th day. However, there may be circumstances when this timeframe will be exceeded. If any such delay occurs the reason for delay should be recorded on Eclipse by the Team Manager and the Operational Manager briefed accordingly.

9.7 The investigatory report should be fully recorded on the Adult Support and Protection Risk Assessment template by the Council Officer leading the inquiry. The completion of the ASP Risk Assessment should be recorded on Eclipse.

9.8 The Team Manager should discuss the inquiry with the Council Officer throughout the process and appraise the senior manager of any issues where relevant. He/she should review the AP2 once completed.

9.9 The Council Officer, Team Manager and Operational manager should meet to discuss the outcome of the inquiry and the Council Officer's recommendations and agree further actions.

9.10 If no further action or alternative action to a Case Conference is agreed, the reasons and for this and future should be recorded clearly on the Chronology section in Eclipse and authorised by the Operational Manager.

9.11 The ASP classification should be removed. The Team manager will approve the S4 inquiry worklist, and the ASP classification should be ended.

**10. Adult Support & Protection (ASP) Case Conferences, Core Groups and Reviews**.

10.1 An Adult Support & Protection Case Conference is a multi-disciplinary, inter-agency meeting which is called by Social Work to share information and make decisions about an adult at risk in cases where harm has occurred or is suspected.

* An ASP Case Conference should take place within 20 working days of the decision to proceed to an inquiry. Inquiries, including a risk assessment should be recorded on the risk assessment document and completed at least 2 working days before the case conference.
* If the inquiry is protracted the reason for delay should be noted on Eclipse. The operational Service Manager is to be advised accordingly and a new timeframe agreed and recorded on Eclipse for the completion of the Risk Assessment and Case Conference. In some cases, the decision will be not to progress to a case conference but unless agreed and noted on Eclipse by the Operational Manager the Risk Assessment will still be completed.

10.2 An inquiry carried out subject to the Act Adult Protection procedures may or may not lead to an Initial Case Conference. The decision on whether to convene a case conference will be made by the senior manager (Operational Manager/Equivalent) and be informed by the ASP Risk Assessment. Where allegations cannot be substantiated or there is insufficient evidence a case conference should still be considered. This will provide the opportunity to carefully consider the situation and agree actions still required in terms of the management and overview of risk and the grounds for review.

10.3 Any decision not to proceed to a case conference will be shared with other agencies and clearly recorded on Eclipse. Key staff from any other involved partner agency may however request that a case conference (or similar inter-agency meeting) is convened if they disagree with the decision not to hold such a meeting. Having considered any such request, the Operational Manager will decide whether a further meeting is required. Any formal dispute will be subject to the Multi-agency Escalation of Risk Protocol (MaREP). (Refer to appendix 6).

10.4 The case conference will be chaired by a The Operational Manager who is a registered Social Worker and should follow the agenda set out in appendix 2 Although this is not prescriptive and should be updated to reflect the specifics of individual cases. The Chair of the Adult Protection Case Conference will have a responsibility to consider wider legislation that contributes to the protection of the individual at risk of harm, such as the Adults with Incapacity Act 2000 and the Mental Health (Care and Treatment) Scotland Act 2003.

* The Act provides a range of Protection Orders which should be considered as part of developing a risk management and protection plan. A petition to the court for a Protection Order will require considerable supporting evidence and will demonstrate that less restrictive options have been considered and that significant risk exists.
* Renfrewshire Council Legal Services staff should be invited to any ASP Case Conference for advice and guidance where consideration may be given to seeking a Protection Order or it is believed that other legal considerations may apply.

10.5 Other formal mechanisms exist within partner agencies which contribute to the protection of adults at risk and may operate in parallel with Adult Support and Protection procedures. Where relevant, the operational Team Manager/Senior Social Worker manager will link with other partner agencies to avoid duplication and ensure effective coordination, clear lines of responsibility, and encourage a consistent approach. It should be noted that ASP statute should primarily take precedence over non statutory practice in relation to practice issues.

Examples of this could include:

* Care Programme Approach – multidisciplinary meetings convened by a psychiatrist which are used to co-ordinate the care and protection of adults with a mental disorder (including those with a learning disability)
* Multi-Agency Risk Assessment (MARAC)
* Multi- Agency Public Protection Arrangement (MAPPA)
* Compulsion & Restriction Orders (CORO)
* Measures in relation to registered establishments taken by the Care Inspectorate

10.6 General guidance on conducting and managing the Conference:

* Should the Conference agree an Adult Protection Plan where significant risks are identified this should be recorded in the completed Minute and Adult Protection Plan AP3.
* The AP3 must be signed by the Chair of the Case Conference. The Adult Protection Plan recorded in the adult’s profile notes.
* When it is agreed that an Adult Protection Plan is not necessary this should be noted explicitly in the minute and in case records/chronology on Eclipse.
* All required forms are available as templates and should be recorded on Eclipse.
* The Eligibility criteria given to adults subject to an ASP inquiry or ASP Protection Plan is “Critical” and should be recorded on Eclipse.
* The manager of the service is accountable and responsible for ensuring effective performance and governance arrangements are in place for those subject to protection plans. The locality managers of the two Renfrewshire locality teams and relevant managers of the specialist services – CMHT, OACMHT, RLDS, and ADRS will have overall responsibility for practice and management of adult protection within these services.
* The case conference chair will be responsible for ensuring that a full and accurate minute of the meeting is circulated to relevant individuals and agencies. The chair will decide who should receive a copy of the minute. Where it is deemed inappropriate for reasons of confidentiality to give a copy of the minute to a particular individual or agency, consideration will be given to providing a summary version or a copy of the protection plan. Care should be exercised when sending the minute to the adult at risk where other individuals (including the person alleged to be causing harm) are able to access it and where the adult lacks the capacity to safeguard the information.
* Written reports provided at the case conference by agencies will not be circulated with the minute unless this has been specifically agreed at the meeting.
* An action point summary will be issued within one working day of the case conference/review case conference.
* The full minute of the case conference/review case conference will be circulated within 10 working days of the meeting and will include.
* A record of the discussion
* a copy of the protection plan, including the allocation of roles and responsibilities
* decisions made regarding statutory intervention with reasons as to why pursued or not pursued.
* Confirmation of who will lead the Core Group and timescales.
* identity of key worker allocated to care manage the case.
* any other decisions taken.
* note of any dissent from decisions
* date of review case conference
* Investigations by the Office of the Public Guardian into allegations of financial harm

10.7 Communication with GP. It may be useful to consider contacting the Practice Manager, along with the GP. If a GP is particularly busy, the Practice Manager can liaise between the GP and the Council making inquiries under the Act. They are at the centre of the GP surgery operations; and can alert/ remind the GP to respond to requests for information or invites to attend any meetings arranged under the Act.

10.8 The Council Officer will coordinate 4 weekly meetings of the Core Group involved in the protection plan. This should involve the adult who is subject to the Protection Plan and, where appropriate, family/ unpaid carers and advocacy. The Team Manager will chair the Core Group meeting.

10.9 Following commencement of an Adult Protection Plan an Adult Protection Review Case Conference should be held within 3 months and subsequently within another 3 months if the adult remains subject to a protection plan. Reviews should be brought forward within a shorter timescale if considered appropriate due to higher risk, lack of progress, new risk etc.

10.10 The protection plan will be formally reviewed through review case conferences. These will involve those professionals and agencies who attended the original case conference however membership may need to be updated to reflect those currently working with the adult and to maximise the participation of the adult and his/her representatives and family.

10.11 The purpose of a review case conference is to:

* summarise the work undertaken since the previous conference.
* establish the current level of risk to the adult.
* review the effectiveness of the protection plan.
* update, amend or discontinue the protection plan as required.
* ensure that action agreed under the protection plan has taken place and if not the reasons for this.
* confirm any change in Council Officer

10.12 For all Case Conferences and Review Case Conferences and Core Groups, communication with the person subject to the ASP Procedures and relevant family/friends should be subject to a form of engagement consistent with the following principles: Person’s preference to how they meet should be fully supported where practical to do so.

* Preferred venue if formal meeting rooms considered to be intimidatory or may link to historical trauma events.
* Advocacy being arranged to provide support.
* Family/friend being available to provide support
* Interpreter available if language is an issue in relation to ability to communicate and engage.
* Key worker support of disability is an issue in relation to ability to communicate and engage.
* Pre-Case Conference meetings offered by Team Manager/Operational Manager as appropriate to assist the adult prepare for a formal meeting. Again, any support to assist with this meeting should be arranged.
* Post Case Conference meetings offered by Team Manager/Operational Manager as appropriate to assist the adult reflect on the formal meeting in terms of general understanding and actions etc. Again, any support to assist with this meeting should be arranged.

\*\* Note, this list is not prescriptive and professional judgement should be considered for each case

**11. Statutory Protection Orders. Assessment, Removal & Banning Orders/ Warrants**

11.1 What follows are the salient points of each of the Protection Orders subject to the 2007 Act. This does not replace the more detailed information contained within the Act and the AS & P Code of Practice (2022). These should be referred to if consideration is being given to an application under this part of the Act.

11.2 Any protection order subject to the 2007 Act represents a serious intervention in an adult's life, a sheriff must be satisfied that the council has reasonable cause to suspect the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, at risk of ‘serious harm’.

11.3 There is no requirement under the Act for the council to have previously arranged a visit under Section 7, an interview under Section 8, or medical examination under Section 9 prior to applying for a protection order. Protection orders may be applied for at any time in the process, depending on the individual circumstances of a case.

11.4 Where the adult at risk has refused to consent, Section 35 provides that the Sheriff in considering making an order, or a person taking action under an order, may ignore the refusal where the sheriff, or that person, reasonably believes:

* that the affected adult at risk has been ‘unduly pressurised’ to refuse consent; and
* that there are no 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.

11.5 In relation to Protection Orders, the Sheriff has discretion to appoint a safe guarder to safeguard the interests of the ‘adult at risk’ before deciding the application, as per Section 41(6) of the 2007 Act.

11.6 Assessment Order

The purpose of an Assessment Order under Section 11 of Act is to determine whether the adult is an adult suspected to be at risk; and whether there is reasonable cause to suspect that the adult at risk is being, or is likely to be, seriously harmed; and whether any action should be taken to protect the adult from serious harm. Application for an assessment order must be made by the council's legal department, which authorises the council, if necessary, to take the adult from a place being visited under the order to allow:

* the interview to be conducted in private and /or
* a private medical examination by a health professional nominated by the Council.

**Note:**

* The Assessment Order is valid for 7 days after the date specified in the order. The date specified in the order may be different from the date the order is granted. For example, an order dated 13 November would expire at midnight on 20 November.
* An assessment order does not have the power to detain the adult in the place they are taken to. The adult may choose to leave at any time.

11.7 Removal Order

* Removal Order, Section 14, can only be granted in respect of an adult at risk of harm and is primarily for protection purposes and not for a council interview or a medical examination.
* The order permits the person named in the order to be moved from any place to protect them from harm. A removal order will be granted only where the sheriff is satisfied that the adult is likely to be ‘seriously harmed’ if not moved to another place and that there is a suitable place available to remove the adult to. The Removal Order should specify where the adult is to be removed to.
* The council petition the Sheriff Court for a Removal Order, which would allow the removal of the adult to another place primarily for the purposes of protection.
* If not practical to apply to the sheriff and the adult at risk is likely to be harmed if there is any delay in granting an order an application may be made to a Justice of the Peace.
* There is a 72-hour period in which to enact the Removal Order. It expires 7 days (or such shorter period as may be specified in the order) after the day on which the person specified in the order is moved to the named place of safety.
* A removal order does not contain powers of detention. The adult can refuse to stay in the place specified.
* Although the Act does not make explicit what happens after the order expires or the adult chooses to leave, the Council continues to have a ‘duty of care’ to return the adult safely to the place from which they were removed or to a place of their choice, within reason. To this end, the Council may consider agreeing some form of support plan with the adult, or where appropriate, convene a multi-disciplinary meeting to discuss further care and protection issues.

11.8 Banning Orders (section 19) or Temporary Banning Orders (section 21 2007 Act)

* These orders will only be granted where the adult at risk is in danger of being seriously harmed.
* A Banning or Temporary Banning Order, which bans the subject of the order from a specified place, may have other conditions attached to it, and may last for a period of time not exceeding 6 months. The purpose of these orders is to better safeguard the adult at risk's well-being and property more effectively than would removing the adult from a place where they are at risk of harm from another person.

**Note:** A Banning or Temporary Banning order may:

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

**Note:**

1. A condition specified in an order may authorise the subject of the order to be in a place or area from which they are banned, but only in specified circumstances, for example while being supervised by another person or during specified times.

2. An application for 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; or
* a Council.

11.9 Warrant for entry:

* Where it is anticipated that the use of ‘reasonable force’ may be necessary to execute an Assessment or Removal Order, a Warrant for Entry should be considered subject to Section 37 of the 2007 Act.
* The sheriff (or justice of the peace) must grant a Warrant that authorises a police constable to use reasonable force where necessary to achieve the purpose of the visit. Wherever possible, entry to premises should first be attempted without force. The use of force is an absolute last resort, to be used in very exceptional circumstances, and only when all other options have been exhausted.
* The Warrant permits a Constable to accompany a Council Officer and to do anything, including the use of reasonable force, where necessary which the Constable considers to be required in order to fulfil the object of the visit. Only the constable has a right to use reasonable force.

**Note: Once a warrant has been executed, it cannot be used again.**

11.10 Power of Arrest (section 25)

The sheriff can make a decision to attach a Power of Arrest based on the facts and circumstances of the case presented. This would be based on the likelihood of the subject breaching the Banning Order or any of the conditions attached to the Banning Order.

**12. Management of Casework/ASP Case Recordings/Chronologies**

12.1 Essential that case notes and chronologies are routinely updated, **case notes a minimum of weekly** and **chronologies a minimum of monthly** in order that casework and any other issues are properly evidenced and used as part of the protection plan.

12.2 There is a **specific** recording section for Case Note Heading for ASP case notes on Eclipse which should be used.

12.3 The **general** chronologies tab on Eclipse should be used for chronologies.

12.4 During the inquiry stage, the Investigatory Report should detail contacts, interventions by the different professionals and therefore the requirement for a detailed case note is not essential at this stage. The case note can simply refer to the inquiry date started, date ended and confirm the outcome with reference to the date the Investigatory Report is concluded and signed off by manager. Thereafter, the detailed case notes and chronology are required.

12.5. The Team Manager should have an overview of the case records and chronologies monthly to coincide with Core Groups providing an entry into the electronic case records.

12.6 The Operational Manager should have an overview of the case records and chronologies to coincide with the Investigatory Report being completed, and to with Initial and Review Case Conferences providing an entry into the electronic case records.

**13. Non-ASP, Multi-agency meetings**

* The use of multi-agency meetings in the development and care and risk plans and subsequent reviews is considered to be best practice.
* The ASP procedures identify Planning Meeting, Initial and Review Case Conferences and Core Groups as a means of developing the multi-agency approach.

**However,**

* On occasion there is concern that practitioners often wait far too long before convening a multi-agency meeting and by doing so rather than planning an early intervention the delay results in a statutory ASP response.
* Service providers of complain of not being actively involved.

**Action:**

* Be proactive in convening multi-agency meetings and do not always wait until the matter reaches the ASP threshold.
* Make sure that service providers who know the service users from daily /weekly contact are invited to meetings and encouraged to contribute.
* Non-ASP Meetings can be convened by main grade Social Workers/Case Managers. Discuss with Team Manager as to whether they should attend.
* Non- ASP Meetings can be convened in person or by virtual facility and do not require a minute taker though require a case note is required and the meeting referenced in the chronology.

**14.**  **Management of Issues relating to coercion, control, and undue pressure.**

14.1 The concept of undue pressure introduced in the ASP 2007 Act can present dilemmas for professionals during the course of adult support and protection inquiries.

14.2 Similar considerations apply to coercive control or undue pressure. In such situations the control exercised over a vulnerable person may render them unable to take or action decisions that would protect them from harm. It is therefore important to understand the person's decision-making processes. This should include an understanding of any factors which may have impinged on, or detracted from, their ability to make and action free and informed decisions to safeguard themselves. In these circumstances an affected person should be regarded as unable to safeguard themselves and legitimately be subject to the ASP Act and Procedures.

Note*: The Mental Welfare Commission’s Report: Investigation into the Death of AB (August 2023), provides a detailed analysis of such issues and is recommended reading for Council Officers and Operational Managers within the ASP framework*Section 10 Re: Request for Information from Financial Institution, Section 10 Adult Support and Protection (Scotland) Act 2007

**15.** **Financial Records. Designated Agency Application for Disclosure of Information subject to Sections 4 and 10 of the Adult Support and Protection (Scotland) Act 2007.**

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

15.2 The Adult Support and Protection (Scotland) Act 2007, (the Act) confers on ‘Council Officers’ a duty to inquire cases of suspected harm to an ‘adult at risk’. As part of this inquiry, financial records pertaining to the adult at risk can be requested. Bodies holding these records have a legal duty to co-operate with the inquiry. Failure to do so can amount to the commission of an offence under the Act making the individual liable on summary conviction to a fine or imprisonment.

15.3 “Council Officer” means an individual appointed by a council (local authority) under section 64 of the Local Government (Scotland) Act 1973. The Council Officer submitting this request is registered with the appropriate professional body as a Social Worker, Occupational Therapist or Nurse. They have been delegated the statutory responsibility of Council Officer by the Chief Social Work Officer of Renfrewshire Council.

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

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

The request does not require the consent of the individual, any financial power of attorney or financial guardian before the required information is provided, as in some circumstances the adult in question may be placed at greater risk of harm. Under section 49(2) of the Act, it is an offence for a person or an organisation to fail to comply with a requirement made under section 10, without reasonable excuse.

15.6 Any information received during an inquiry is treated with the utmost confidence and will not be disclosed to any third parties other than in accordance with the provisions of the above Act and other relevant legal requirements.

For the avoidance of doubt, data processing in relation to this request is necessary for compliance with legal obligations [sections 4, 10 and 49(2) of the Adult Support and Protection (Scotland) Act 2007] to which the data controller [the local authority, the Council Officer, and the financial institution in receipt of this request] is subject. Financial Institutions could also rely on Article 6(1) (e) of the GDPR, as read with section 8(c) of the DPA, namely the necessity of processing for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, as a lawful basis for processing (i.e., passing on) personal data to a local authority.

Where data sharing is necessary to ensure safeguarding but is not specifically covered by ASPA, legal advice should be sought. (Refer to **appendix 7** for standard letter of request and guidance note.)

**16.** **Non-co-operation from those assessed requiring Protective measures and governance for case closure.**

16.1 There are occasions when the person assessed at risk, the alleged perpetrator of harm or both no not cooperate with the Protection Plan but the risk to the abused person remains.

16.2 In such circumstances that for whatever reason, it is impossible for the Council Officer/Case Manager to implement the improvement plan on a recurring basis or in doing so it is assessed that the risks to the person at risk is made more significant rather than less, there may be grounds to close the case. In doing so the following issues should be considered:

There are three key elements that require to be considered before ending the adult protection process:

1. Current and future of risk:

* Is the adult still experiencing harm and/or is there a likelihood they will continue to experience harm if this process ends?
* Have the actions of the protection plan been implemented, and have they achieved their intended outcomes?
* Has the individual(s) alleged to be causing the harm cooperated with the plan, including any protection orders?
* Is the individual(s) alleged to be causing the harm still in contact and/or are they likely to re-establish contact if the adult protection process ends?
* Have there been any significant issues in relation to the adult and/or relative, carer or significant other(s)?
* What steps have been taken to overcome all or any of these issues?

2. Current views of all relevant parties:

* What is the view of the adult, have they been spoken to alone, and have they been seen at home?
* What is the view of the carer(s), relative(s), or significant other(s)?
* Have the views of the relevant professionals been sought or considered within or out with the case conference processes?

3. Future planning and arrangements:

* Is there evidence that the adult at risks welfare will be safeguarded and promoted should the adult protection process end, or the case closed?
* What will be the ongoing care and support plan?
* Are there risks best managed via another process – care management, care programme approach, use of other legislation and processes?
* If further adult concerns arise is the adult, carer(s), significant other(s), care provider(s), and any other agencies clear as to how to escalate.
* If the case is to be closed is the adult, carer(s), significant other(s), care provider(s), and any other agencies clear as to how/whom to refer back to the service?
* Is there any legislative intervention that can assist in the reduction of the harm subject to ASP or Mental Health statutes? If so, would their enactment be appropriate and proportionate to the level of risk identified?
* Will the closure of the case reduce or increase the level of risk?
* Are there other means to supervise/manage the case to take an ongoing overview of the matter? e.g. The GP, Community Nurse, Housing Officer may have ongoing contact that allows them to report any escalation of risk to Social Work services.

16.3 Process/Governance for closure:

In such circumstances of non-cooperation where the ASP Protection Plan has not reduced the risk an acceptable level, the matter should be managed via the multiagency review case conference and a recommendation to close is made within that forum. The recommendation is then passed to the operational Service Manager and then onto the appropriate Head of Service and then the Chief Social Work Officer to consider and decide whether to close the case or continue.

**17. ASP Code of Practice 2022 (Scottish Government): Additional Main Themes for Noting/Action**

*Note: Council Officers and Operational Managers should take an individual professional responsibility for having a working knowledge of The Adult Support and Protection (Scotland) Act 2007, Code of Practice July 2022 to supplement briefings provided by the HSCP (Health and Social Care Partnership).*

[*www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2022/07/adult-support-protection-scotland-act-2007-code-practice-3/documents/adult-support-protection-scotland-act-2007-code-practice/adult-support-protection-scotland-act-2007-code-practice/govscot%3Adocument/adult-support-protection-scotland-act-2007-code-practice.pdf*](http://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2022/07/adult-support-protection-scotland-act-2007-code-practice-3/documents/adult-support-protection-scotland-act-2007-code-practice/adult-support-protection-scotland-act-2007-code-practice/govscot%3Adocument/adult-support-protection-scotland-act-2007-code-practice.pdf)

17.1 Interpretation of the 3- point criteria / Capacity.

ASP Code of Practice (2022) (pp11-15)

* It should be noted and strongly emphasised that the three-point criteria make no reference to capacity. For the purposes of the Act, capacity should be considered on a contextual basis around a specific decision, and not restricted to an overall clinical judgement.’
* It is recognised that, due to many factors in an individual’s life, capacity to make an authentic decision is a fluctuating concept. Thus, even if deemed to possess general capacity, attention must be paid to whether a person has clear decisional and executional ability (i.e., to both make and action decisions) to safeguard themselves in the specific context arising.’
* The first element of the three-point criteria relates to whether the adult is unable to safeguard their own well-being, property, rights, and other interests. ‘Unable’ is not further defined in the Act but is defined in the Collins English Dictionary as “lacking the necessary power, ability, or authority (to do something); not able.”
* ‘Unwilling’ is defined in the Collins English Dictionary as “unfavourably inclined; reluctant” and may thus describe someone who is aware of the potential consequences but still makes a deliberate choice.
* A distinction should therefore be drawn between an adult who lacks these skills and is unable to safeguard themselves, and one who is deemed to have the skill, means or opportunity to keep themselves safe, but chooses not to do so. An inability to safeguard oneself is not the same as an adult not having capacity.

Note: It is important to stress that all three elements of this definition must be met, or that there are grounds for believing all three elements may be met, for an adult to be deemed an adult at risk and for interventions to take place subject to the 2007 Act.’

17.2  Application of 3-point criteria and Trauma Informed Lens. (The ASP Code of Practice (2022) p20)

* “Trauma informed practice is an approach to care provision that considers the impact of trauma exposure on an individual’s biological, psychological, and social development. Delivering services in a trauma informed way means understanding that individuals may have a history of traumatic experiences which may impact on their ability to feel safe and develop trusting relationships with services and professionals.”
* “As part of an assessment, which may require significant time to undertake, it is crucial to understand the person’s decision-making processes. Consideration should be given to any factors that may have impacted upon the adult with the effect of impinging on or detracting from, their ability to make free and informed decisions to safeguard themselves. This could therefore mean that, in some circumstances, they should be regarded as unable to safeguard themselves.’
* Professionals involved in the identification, support, and protection of adults at risk of harm may wish to make use of the resources provided by the National Trauma Training Programme.

*For greater detail, the following document is recommended reading for all Council Officers and Operational Managers.*

Trauma-Informed Practice: A Toolkit for Scotland (www.gov.scot)

**Note:** While Trauma informed practice is exclusively referenced within the ASP Code of Practice, practitioners may wish to supplement reference to Trauma based Practice in their assessment work with reference to other theoretical frameworks, for instance, Psychosocial Development Theory, Systems Theory, Rational Choice Theory. It is essential that whatever approach is taken that there is a recognition that the primary aim of ASP is to Care and Protect which may require an authoritarian, directive and or legislative approach to casework in the short to medium term or on occasion indefinitely with the risk of reinforcing historical Trauma.It is essential that whatever approach is taken that there is a recognition that the primary object of ASP is Care and Protection which may require an authoritarian, directive and or legislative approach to casework in the short to medium term, or on occasion indefinitely.

17.3  Examination of Records:

* Section 10 of the Act which permits Council Officers to obtain and inspect copies of health, financial or other records relating to an adult known or believed to be at risk, if this is required to establish whether further action is required to protect that adult from harm.
* Health records may be inspected only by a health professional (a doctor, nurse, midwife, or other type of individual described by order of the Scottish Ministers).
* The Council Officer may require any person holding health, financial or other records relating to an individual whom the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer.
* Requirements made at such other times must be made in writing.

17.4. Multi-Agency Chronologies:

A multi-agency chronology is “best practice” while recognising that electronic systems across the different professional organisation invariably are unable to share information within a single electronic system. This requires the Council Officer to collate key events noted by the different professional/agencies into a single multi-agency chronology within Eclipse.

A multi-agency chronology must comply with information sharing guidance and protocols in the way that it is developed, held, shared, and reviewed; reflecting information sharing guidance in this document, including duties to cooperate under Section 5 of the Act. It must be accurate, relevant, and proportionate to Purpose.’

**A multi-agency chronology:**

* is a synthesis which draws on and collates single-agency chronologies into a single multi-agency chronology.
* reflects relevant experiences and impact of events for the adult.
* will include significant events, indications of progress and/or relapse.
* will inform analysis but is not in itself an assessment.
* may evolve in a flexible way to integrate further necessary detail.
* may highlight further assessment, exploration or support that may be needed.

*For greater detail, the following documents recommended reading for all Council Officers' and Operational Managers: Chronologies in Adult Support and Protection Moving from current to best. June 2023, Ellen Daly, Iriss.*

<https://www.iriss.org.uk/sites/default/files/2023-06/iriss-asp-chronologies.pdf>

**18. Transitions between Child Protection and Adult Support /Protection**

18.1 A short-term working group has been established and led by the Lead Officers of the Child and Adult Support and Protection Committees in order to progress this matter and report recommendations to the committees during 2024.Working principles already established are as follows:

* The matter will be progressed in the best interests of the young adult aged 16 & 17.
* Continuity should be provided by Children’s services and the Child Protection procedures for those young adults presently subject to statutory childcare provision.
* Future procedures should be consistent with the proposed updates to legislation relating to Children’s Services, specifically extending the remit of the statutory children’s services to include 16- & 17-year-olds which focuses on a welfare approach to intervention and support. Children (Care and Justice) (Scotland) Bill (SP Bill 22)

**19. Hoarding** Refer to Hoarding Behaviour Guidance December 2022.



**20. Inquiry activity involving in-house services, maintaining impartiality**

20.1 Essential that ASP issues relating to in-house services are and managed in a manner that sustains impartiality and avoids compromising the independence of the inquiry.

20.2 In sustaining impartiality due consideration should be given to:

* which manager leads the inquiry to evidence impartiality?
* the inquiry proceeds with the same level of formality as any other inquiry.
* informal conversation with staff/managers working within the service subject to inquiry are deemed inappropriate and detrimental to the inquiry.
* the appropriate Service Manager is advised of the requirement to investigate.
* the appropriate Head of Service is advised of the requirement to investigate.
* the appropriate Head of Service will be responsible for briefing the Chief Officer, HSCP as considered necessary.
* the appropriate Head of Service will be responsible for briefing the Chief Officer, HSCP as considered necessary.
* The appropriate Head of Service will be responsible for briefing the Chief Social Work Officer as considered necessary.

**21****. Professional disagreement.**

21.1 Professional disagreements should be managed with due respect whether it is a disagreement between practitioners of the same profession or those of different professions. Disagreements may well facilitate a more detailed conversation before concluding on a way forward.

21.2 Disagreements may be noted and recorded in the minute of Initial Case Conferences, Review Case Conferences and Core Groups.

21.3. Practitioners of the same profession should be empowered to note their disagreement with their line manager and authorised to request the matter discussed with the next senior manager in the management structure as appropriate. In doing so, the expectation is that the issue is presented in writing highlighting risks etc and an alternative protection plan. Expectation is that this would be managed out with the Case Conference/Review process.

21.4 Disagreements between professionals /organisations can be dealt with via the Multi-agency Escalation of Risk Protocol (MaREP)



**22.**  **Relationship between Risk based practice, Procedures & Legislation**

The ASP process combines practice, procedure, and legislation and understanding all three and how they inter-link is an essential part of the Social Work professional task.

* Be knowledgeable of the Inter-agency procedures and Operational Procedures/Guidance
* Be knowledgeable of the ASP Code of Practice (2022)
* Be knowledgeable of the relevant statutes:
* Adult Support and Protection (Scotland) Act 2007
* Adults with Incapacity (Scotland) Act 2000
* Mental Health (Care and Treatment) (Scotland) Act 2003.
* Essential that inquiries and interventions are primarily led by a detailed professional risk assessment.
* Procedures are in place to support best practice, not replace it.
* Do not use a tick box approach to the use of procedures to justify a lack of a detail risk assessment.
* Do not use a tick box approach to the use of procedures to justify a lack of assertive and, if required legal intervention in our aim to care and protect vulnerable people.

***Note:*** *The Mental Welfare Commission’s Report: Investigation into the Death of AB (August 2023), provides a detailed analysis of such issues and is recommended reading for Council Officers and Operational Managers within the ASP framework.*

[InvestigationIntoTheDeathOfAB\_20230803.pdf (mwcscot.org.uk)](https://www.mwcscot.org.uk/sites/default/files/2023-08/InvestigationIntoTheDeathOfAB_20230803.pdf)

**23****. Briefing for Care at Home, Day & Residential Social Care Staff**

Refer to briefing note 2023. 

**24. Large Scale Investigations** Refer to separate Large Scale Investigations Procedure January 2020. 

**Appendix 1: Referral Pathway Diagram**

ASP Referral

Duty System

ASeRT

All Referral go via ASeRT. No exceptions.

Any direct referrals from one Team Manager to another must be aligned with an immediate referral via ASeRT

ASeRT pass Referral to Relevant Team Manager based on available information as follows:

New Referrals go to the relevant Team Manager based on the information available relating to the service user’s client group.

If case is already open the referral goes to the Team Manager for that Team.

If case is closed but previously open the referral goes to the Team Manager of team previously open for initial consideration unless there is explicit information available indicating that a different Team Manager is appropriate..

**Appendix 2: Practice Note to all ASP Council Officers/Team Managers / Operational Managers / Locality Managers/Service Managers & Equivalent**

Adult Support & Protection (ASP): Invites to Case Conferences/Distribution of Minutes/Action Notes.

Invites to case conferences (Initial & Review) should be issued to a core group of professionals and agencies as follows:

* Council Officers
* Adult Social Work Team Managers
* Adult Social Work Operational Managers
* General Practitioner (GP)
* Community Nursing
* Police Scotland
* Care Inspectorate (should the issue involve a registered service)
* The Adult at Risk
* Family/Guardian or Adult at Risk’s chosen representative

**The Core Group can be supplemented as follows:**

* Mental Health Officer
* Renfrewshire Council’s Legal service.
* Specialist NHS Consultant
* Advocacy
* Service Provider: Care Home, Supported Living Provider, Day/Care at Home service etc.
* Others as deemed appropriate by the Chair of the Case Conference on a case-by-case basis.

Note: Essential that records of all invites are retained for audit purposes and confirmation at the Case Conference. Likewise, apologies for no-attendance are noted in the minute of the Case Conference.

**Distribution of Minutes & Action Notes:**

* As per the Renfrewshire ASP Operational Procedures, Dec21, section 6.18, Case Conference minutes will be distributed within 10 working days of the Case Conference
* As per the Renfrewshire Inter Agency Adult Support & Protection Guidance & Procedures, April 2017, the action notes from the Case Conference will be distributed by secure e mail within 1 working day.

*Note: In both cases of minutes and action notes, copies* ***will be issued to GPs*** *whether they have been able to attend the Case Conference or not.*Jim Robb, Strategic Service Manager

**Appendix 3a:**

**Recommended Agenda for Initial Adult Support and Protection Case Conferences:**

In respect of

[Enter Adult’s Name] and [date of birth]

Held in venue Name, Enter date and time.

1. Introductions and apologies
2. Has Advocacy been Offered.
3. Purpose of the Case Conference
4. Circumstances leading to case conference.
5. Agency reports of involvement with [Enter adult’s name]
6. Carer’s & Families’ views
7. [Enter adult’s name] views.
8. [Enter adult’s name] individual needs:
   * Safe
   * Healthy
   * Active
   * Nurtured
   * Achieving
   * Respected and responsible
   * Included - remove.
9. Discussion on areas of strength/risks
10. Individual views (from all in attendance) on need for and Adult Support and Protection Plan for [Enter adult’s name]
11. Adult Protection Plan agreed (SMART planning) along with contingencies. Consideration of Protection Orders / interventions under Adults with Incapacity (Scotland) Act 2003 / intervention under Mental Health (Care & treatment) (Scotland) Act 2005
12. Membership of Core Group and date of first meeting agreed.
13. Appeal process\*
14. Review case conference date

\*If decision is an Adult Support and Protection Plan is required and the adult or their appointed proxy does not agree, they should be advised by the Chair that an appeal to review the decision can be made to the appropriate Head of Service.

**Appendix 3b: Purpose of the ASP Review Case Conference:**

* Review the implementation of the Adult Protection Plan
* Share information on progress made since last Case Conference
* Clarify whether circumstances have changed that have resulted in a reduction of risk.
* Review the need for continuing with a protection plan.
* Review the adult protection plan in order to reduce/manage the identified risks.
* Consider the need for intervention subject to the suite of acts for protection of adults.

**Appendix 4:**

**ASP Checklist**

The following table is a guide to the core information that must be recorded for Adult Protection cases. This is not only to ensure good case recording, but it is also required for National Data Returns.

|  |  |
| --- | --- |
| **Event** | **Check** |
| **Inquiry** | **Has a decision been recorded?**  **Record profile note.** |
| **Conferences / Core Groups** | **Have decisions been recorded? Record profile note. Minutes signed off and issued?** |
| **Protection Plans** | **Protection Plan have a start date? Record profile note.** |
| **NFA Decisions** | **Date** / **profile note** |
| **Dates** | **Dates arranged for future meetings** |

**Appendix 5: Standard letter: Section 10 Request**

Dear …

Re: Request for Information from Financial Institution

Section 10 Adult Support and Protection (Scotland) Act 2007 (ASPA)

I, (name), in my role as Council Officer for Renfrewshire Council, formally require disclosure of information from (company name and address). The request is made subject to Sections 4 (Inquiry) and 10 (Examination of Records) of the Adult Support and Protection (Scotland) Act 2007 (the Act) on the basis that we know or believe the below named to be an adult an adult at risk of harm as defined by the Act.

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

All information provided will be managed within the terms of the Adult Support and Protection (Scotland) Act 2007, the Data Protection Act 2018 (“DPA”) and the General Data Protection Regulation ((EU) 2016/679) (“GDPR”).

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

# 

|  |  |
| --- | --- |
| **Name of Customer** | Full name and any known pseudonyms listed separately e.g.  Mary McTavish  May McTavish |
| **Date of Birth (if available)** | Please state in full e.g., 22 July 1952 |
| **Address (if available)** |  |
| **Account Names, Numbers and Sort Codes (if available)** |  |
| **Brief Description of the ASPA Inquiry** | Basic information only to demonstrate that there is a risk or potential risk which has triggered an ASPA inquiry. This may assist the financial institution in locating the type of information required. **NB** Where you have concerns regarding a financial proxy do not state these, however, do advise that your request should not be shared with them. |
| **Financial Information that is required (please include any third-party mandates relating to the accounts located):** | The information requested must be specific as opposed to generic. Ensure you emphasise the need to provide any information about third party mandates. Requests for ‘all statements’ will not be accepted. Consider the issues the service user is facing and what material over what period may support your inquiry. Where you are unclear about the types of information the financial institution may hold use the ‘verbal’ option to seek advice as to what may be available to support your inquiry. Examples include:   * *the balance of Ms XXXX’ account(s)* * *any current Standing Orders or Direct Debits (including to whom payable, regularity and amounts)* * *Statements covering the period …….* * *We should also wish to request similar information for any other account in her name of which we are unaware.”* * *Whether ………holds a Bank or Building Society account with your bank?* * *If so, whether any other persons are signatories to his/her account(s)?* * *Please provide copy statements in relation to any accounts held by ………**…..either jointly or solely for the last ……. months* * *Similar information regarding any other account held in this name.* * *Any known liabilities/debts/mortgages etc.* * *Any relevant financial information held in wills.* * *Any accounts in other names e.g., joint accounts* |
| **Information Format required** | It is likely that most institutions will only provide information in hard copy due to potential security issues with electronic transmission of personal information. |
| **Information required by** | In some circumstances this will be urgent, and it may be useful to state the reasons the information is required quickly and facilitate a verbal information exchange.  In other circumstances please indicate in your request the required time frame e.g., 7, 14 or 21 calendar days. |
| **Council Officer’s Details and Signature** | Name, position, organisation, address, email address, telephone number and signature. Please DO NOT provide a direct dial contact in the first instance. |

**Council Officer Guidance Notes:** The wording and ordering of this document have been approved by national agreement with Social Work Scotland. If issues arise with the structure of the form, please advise your lead officer for adult protection in order that any amendments can be considered at national level.

It is essential at this point that you identify the correct legal entity to address your request to. The name of the legal entity may be different to that of the company you are contacting and may also change over time. Some financial institutions may provide a central point and others local or regional contacts. Ascertaining the correct person, title and address will save time and allow the financial institution to provide you with the fullest level of detail.

The request should use the locally agreed logo or logos and be accompanied by the Information Sheet. Where the functions of a local authority have been delegated to your agency under Section 1(5) of the Public Bodies (Joint Working) (Scotland) Act 2014 please indicate in your request which local authority has delegated that power to your agency.

Where requests are made electronically the Council Officer must ensure that the information is sent and received securely.

**Use of Information Received Subject to Section 10 request.**

It is essential to note that information received must not be distributed in its original form to third parties. It must only be used to inform protection planning.For example, bank statements obtained should not be distributed as this may be neither relevant nor propionate. Others only need to understand that harm has been substantiated. However, sharing an assessment or actions required based upon the information received may be relevant and proportionate but should not refer to exact amounts or details. Where a crime has been committed this may not apply. If in doubt, please check your local data protection policy.

**When a Section 10 Request is Refused**

1. Request that the company/organisation provide their reasons promptly in writing if they have not done so.
2. Discuss the issue with your line manager and consider a request to your legal services department. This request should be based around the need to formally contact the organisation re-emphasising the legal basis of the request, the fact that inaction can lead to further harm and may be an offence under Section 49 (2) of the Adult Support and Protection (Scotland) Act 2007.
3. Record the initial refusal, reasons given and the actions and outcomes thereafter.