

Protecting and Supporting Adults At Risk In Tayside

Multi Agency Adult Support and Protection Protocol

Final Draft November 2010

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Foreword

This Multi-Agency Protocol represents the commitment of agencies within Tayside to:

- unite in the prevention of and protection from harm, mistreatment and neglect of adults at risk aged 16 years and over;
- ensure situations of actual or suspected harm, exploitation, mistreatment and neglect are identified, recorded and investigated; and
- provide services and support for adults at risk who are experiencing harm.

All agencies have an essential role to play in ensuring that adults at risk are protected from harm, mistreatment or neglect. Agencies have a responsibility to assess the risk of harm, mistreatment or neglect, to work together alongside the adult at risk and his or her family members and care givers, to identify actual harm and reduce the risk of harm. To achieve this requires a clear understanding of the roles and responsibilities of the organisations and agencies involved directly and indirectly in caring for adults who may be at risk. Good communication, co-operation and liaison between agencies are essential, as are clear procedures which promote the interests of adults at risk, their families and caregivers.

This Protocol will be used throughout Tayside to guide and inform local inter-agency procedures and practice concerning the protection of adults who may be at risk.

It provides a framework which will:

- put adults at risk at the centre of the protection process;
- enable workers to recognise when adults may be at risk of harm, mistreatment or neglect;
- explain how assistance and services can be provided;
- clarify the current legal position;
- ensure the use of appropriate channels for assessment of need and investigation;
- promote positive collaborative working;
- establish a framework for case conferences, protection plans, risk monitoring and review;
- set out requirements for recording and communicating information.

It acknowledges the complexity involved in the protection of adults at risk and is underpinned by the need to respect each adult's right to make decisions about issues such as where and with whom they live. It also recognises that assessments need to take into account the capacity of adults at risk to make decisions or exercise control to protect themselves.

It has been developed through a consultation process within Tayside and will continue to be reviewed to ensure that it remains relevant in promoting effective multi-agency working.

Multi-Agency Protocol

Introduction

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

Harm presents a challenge to all agencies concerned with the support and protection of adults at risk. Effective joint working is essential if the welfare of an adult at risk is to be protected.

Safeguarding adults at risk is a high priority for all agencies in Tayside. The key to ensuring individuals who may be at risk are appropriately supported and protected lies with the empowerment of the individual and their carers. The introduction and implementation of Adult Support and Protection legislation, sound recruitment practices and the provision of appropriate training are also important factors in supporting and protecting adults at risk.

This Multi-Agency Protocol has been developed to provide a framework that can be applied across all agencies working to support and protect adults at risk in Tayside. It is designed to ensure that there is common practice and will be supported by local procedures and guidance.

The guidance will also be supported by joint training which will help develop understanding and respect for individual professional roles, increase awareness of adult protection issues and contribute to effective intervention.

Principles of Practice

In practice use of the guidance contained in this protocol means that agencies should:

- actively work within the principles defined in the Adult Support and Protection (Scotland) Act 2007 and the national care standards: dignity, privacy, choice, safety, realising potential, equality and diversity;
- actively work together within an inter-agency framework;
- actively promote the empowerment and well-being of adults at risk through the services they provide;
- act in a way which supports the rights of the individual to lead an independent life based on self-determination;
- recognise people who are unable to take their own decision and/or to protect themselves and their assets;

- recognise that the right to self-determination can involve risk and ensure that such risk is recognised and understood by all concerned, and minimised whenever possible;
- ensure the safety of adults at risk by integrating strategies, policies and services relevant to harm within the legislative framework, which includes:
 - The NHS and Community Care Act 1990
 - The Regulation of Care (Scotland) Act 2001 and introduction of care standards
 - The Human Rights Act 1998
 - The Adults with Incapacity (Scotland) Act 2000
 - The Mental Health Care and Treatment (Scotland) Act 2003
 - The Data Protection (Scotland) Act 1998
 - The Vulnerable Witnesses(s) Act 2004
 - The Protection of Vulnerable Group(s) Act 2007
 - The Public Interest Disclosure Act 1998
 - The Sexual Offences (Scotland) Act 2009
- ensure that, wherever possible, adults at risk are protected from criminal acts;
- ensure that when the right to an independent lifestyle and choice is at risk the individual concerned receives appropriate help, including advice, protection and support from relevant agencies (eg independent advocacy);
- ensure that the law and statutory requirements are known and used appropriately so that adults at risk receive the protection of the law and access to the judicial process.

Legislative Background

Section 12 A of the Social Work (Scotland) Act 1968 and the NHS and Community Care (Scotland) Act 1990 gives legislative power and duties to the local authority to become responsible, in collaboration with other agencies, for the assessment of the needs of an individual for whom they may need to provide a community care service.

The Adults with Incapacity (Scotland) Act 2000 provides the means to protect those with incapacity, for example, through financial and welfare guardianship. The Mental Health (Care and Treatment) (Scotland) Act 2003 sets out duties in relation to people with mental disorders who are subject to ill-treatment or neglect. These acts cover people whose disability or illness is adversely affecting their ability to protect themselves and who are subject to harm, exploitation or neglect.

The Vulnerable Witness (Scotland) Act 2004 makes provision for the use of special measures for the purpose of taking evidence from adults who are deemed to be vulnerable witnesses. It increases the number of support mechanisms available to vulnerable witnesses to help them participate more fully in criminal and civil court proceedings.

The Adult Support and Protection (Scotland) Act 2007 (the Act) introduces measures to identify and protect adults at risk of harm. The measures contained in the Act complement measures in pre-existing legislation.

The Protection of Vulnerable Groups (Scotland) Act 2007 introduces a new membership scheme replacing and improving upon disclosure arrangements for people working with vulnerable groups.

Further information on the legislative framework relevant to work with adults in need of support and protection is provided in Appendix 1 - Legislative Framework

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

The Adult Support and Protection (Scotland) Act 2007 seeks to address the issues of adult support and protection, through its seven key elements:

- Principles governing intervention in an adult's affairs
- Definitions of an "adult at risk" and of "harm" (see Sections 3 & 53 of the Act)
- Statutory duties on local authorities to enquire and investigate
- Duty of cooperation
- Offences (see Section 49 of the Act)
- Protection Orders (see Sections 11 - 28 of the Act)
- Duty to establish Adult Protection Committees (see Section 42 of the Act)

In Tayside Social Work Services in the three local authorities will be the lead agency for receiving referrals and determining the actions to be taken.

Principles underpinning the Adult Support & Protection (Scotland) Act 2007 (Section 1& 2 of the Act)

The principles underpinning the Act mean that:

- intervention must benefit the adult;
- actions should be supportive and least restrictive; and
- interventions must have regard:
 - to the wishes of the adult and relevant others,
 - to providing information and support to enable the adult to participate in the process,
 - to the adult's abilities, background and characteristics
 - to not treating the adult any less favourably than any other person in a comparable situation.

In addition agencies working to support and protect adults at risk in Tayside will work together to ensure that services provided value diversity and promote equality in terms of age, disability, gender, sexuality, previous offending behaviour, cultural, racial and religious identities.

Definitions

(a) Who is an Adult at Risk?

Under section 3 of the Adult Support and Protection (Scotland) Act 2007

“Adults at risk” are adults over 16 years of age who:

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

All three elements of the definition must be met. The presence of a particular condition does not automatically mean an adult is an “adult at risk”.

A person could have a disability, physical and/or mental health problem and be able to safeguard their well-being and interests. It is the whole of an adult’s particular circumstances which can combine to make them more vulnerable to harm than others.

An adult aged between 16 to 18, may still be legally defined as a child if they are subject to a current supervision requirement issued by a Children’s Hearing. It is essential that these young adults receive appropriate support from both Children’s Services and relevant adult based services.

(b) What is harm?

Under Section 53 of the Adult Support and Protection (Scotland) Act 2007 “harm” includes all harmful conduct and, in particular, includes:

- conduct which causes physical harm
- conduct which causes psychological harm (for example: by causing fear, alarm or distress)
- unlawful conduct which appropriates or adversely affects property, rights or interests (for example: theft, fraud, embezzlement or extortion)
- conduct which causes self-harm,

“conduct” includes neglect and other failures to act, which includes actions which are not planned or deliberate, but have harmful consequences.

(c) Types of Harm

The following are the main types of harm:

1. Physical Harm - actual or attempted physical injury inflicted non-accidentally to an adult at risk (including spitting, hitting, slapping, pushing, kicking), misuse of medication or drugs (including depriving someone of prescribed or non-prescribed drugs, or giving the person dangerously large amounts of drugs and/or alcohol) and inappropriate restraint or sanctions.
2. Sexual Harm - including inappropriate intimate contact, rape, sexual assault, sexual acts or human trafficking to which the adult at risk has not consented, could not consent or was pressured into consenting. It should be noted that it is a

criminal offence¹ for someone to have sexual relations with an adult in their care who suffers from mental disorder.

3. Psychological Harm - including emotional harm, threats of abandonment or harm, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.
4. Financial or Material Harm - including theft, fraud, exploitation, scams, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions or benefits.
5. Neglect and Acts of Omission - including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, failure to share appropriate information, the withholding of the necessities of life, such as medication, adequate nutrition and heating.
6. Discriminatory Harm - actions, omissions and/or remarks of a prejudicial nature focusing on a person's age, gender, disability, race, colour, sexual or religious orientation.
7. Human Rights Abuse
 - including right to liberty and security (Article 5);
 - right to a fair hearing (Article 6);
 - right to respect for private and family life (Article 8);
 - freedom of thought, conscience and religion (Article 9);
 - freedom of expression (Article 10);
 - right to marry (Article 12)
 - prohibition of discrimination (Article 14);
 - prohibition of abuse of rights (Article 17) and
 - protection of property (Article 1 of the first protocol).
8. Institutional Harm - repeated instances of poor care or unsatisfactory professional practice.

Any or all of these types of harm may be perpetrated as the result of deliberate intent, negligence or ignorance. This is not an exhaustive list of the types of harm which can affect adults at risk. Harm, mistreatment or neglect may occur as a result of specific incidents. However, concern may grow over a period of time and an accumulation of concerns may prompt a response in line with the contents of this protocol.

(d) Who is a Carer?

A formal carer or care worker is contracted to work by an employer and includes:

- Home Care/Personal Care Workers
- Care Homes (Residential and Nursing Home Staff)
- Sitters
- People employed within the NHS, Day Centres etc
- Support worker employed by a Voluntary Organisation

¹ The Sexual Offences Scotland Act 2009

An informal or unpaid carer is someone who provides care, help and assistance to someone else who is disabled, frail or unwell and may be a spouse, relative, family member, neighbour or friend.

(e) Who is a Council Officer?

Council Officers², who undertake functions set out in sections 7 - 11, 14, 16 and 18 of the Act need, as a minimum need to be:

- registered with the Social Services Council (SSSC) as social workers in the register maintained under section 44 (1) of the Regulation of Care (Scotland) Act 2001; or
- occupational therapists registered with the Health Professions Council; or
- nurses registered with the Nursing and Midwifery Council; and
- have at least 12 months post qualification experience in identifying, assessing and managing adults at risk.

Who may cause harm to adults at risk?

Adults at risk may be harmed by a wide range of people including spouses, partners, relatives and other family members, professional staff, paid care workers, volunteers, other service users, neighbours, friends and associates, strangers and people who deliberately exploit people who may be at risk of harm.

There is often particular concern when harm is perpetrated by someone in a position of power or authority who uses his or her position to the detriment of the health, safety, welfare and general well being of an adult at risk.

Agencies have a responsibility to all adults at risk who may have been harmed or neglected. They may also have responsibilities to those with whom the alleged perpetrator is employed or works as a volunteer.

The roles, powers and duties of the various agencies in relation to the perpetrator will vary depending on whether the latter is:

- a member of staff, proprietor or services manager;
- a member of a recognised professional group;
- a volunteer or member of a community group such as a place of worship or social club;
- another service user;
- a spouse, relative or member of the person's social network;
- a formal, informal or unpaid carer;
- a neighbour, member of the public or stranger;
- a person who deliberately targets vulnerable people in order to exploit them; or,
- a person with mental health difficulties including behaviour or personality disorders and self harm.

² Appointed by the Council under s.64 of the Local Government (Scotland) Act 1973

In What Circumstances may Harm, Mistreatment or Neglect Occur?

Harm, mistreatment or neglect can take place in any context. Harm, mistreatment or neglect may occur when an adult at risk lives alone or with a relative. It may also occur within nursing, residential or day care settings, in hospitals or custodial situations, as a result of support services provided in people's own homes, and other places previously assumed safe or public places.

What is done as a result of a suspicion or allegation of harm, mistreatment or neglect will be partly determined by the environment or the context in which the harm, mistreatment or neglect has occurred, is thought to have occurred or is likely to occur. Assessment of the environment, or context, is relevant because exploitation, deception, misuse of authority, intimidation or coercion may render an adult at risk incapable of making his or her own decisions. It may, therefore, be important for adults at risk to be removed from the influence of the harmful or neglectful person, or setting, in order to be able to make a free choice about how to proceed. An initial rejection of help should not always be taken at face value.

Further information on where harm may occur is provided in Appendix 2 - Harm in Various Settings.

Patterns of Harm, Mistreatment or Neglect

Patterns of harm, mistreatment or neglect vary and include:

- serial abuse, in which the perpetrator seeks out and 'grooms' vulnerable individuals. Sexual harm often falls into this pattern as do some forms of financial harm,
- long term harm in the context of an ongoing family relationship such as domestic violence or harm between partners or generations;
- situational harm which arises because pressures have built up and/or because of difficult or challenging behaviour;
- neglect of a person's needs because those around him or her are not able to be responsible for his or her care. For example if the carer has difficulties attributable to such issues as debt, alcohol or mental health problems;
- institutional harm which features poor standards of care, lack of positive responses to complex needs, rigid routines, inadequate staffing and an insufficient knowledge base within the service;
- unacceptable 'treatments' or programmes which include sanctions or punishment such as withholding food and drink, seclusion, unnecessary and unauthorised use of control and restraint or over- medication;
- failure to access key services such as health care, dentistry, prostheses;
- misappropriation of benefits and/or use of the person's money by other members of the household;
- fraud or intimidation in connection with wills, property or other assets.

Signs of Potential Harm, Mistreatment or Neglect

Suspicious of adult harm or neglect can come to light in a number of ways. The clearest indicator is a statement or comment by the adult themselves, by their regular carer or by others, disclosing or suggesting harm or neglect. Such statements invariably warrant further action, whether they relate to a specific incident, a pattern of events or a more general situation. There are of course many other factors which may indicate harm or neglect.

These may include:

- unusual or suspicious injuries;
- unusual or unexplained behaviour of carers including a delay in seeking advice, dubious or inconsistent explanations for injuries or bruises;
- an allegation of harm made by an adult who may be at risk
- an adult who may be at risk found alone at home or in a care setting in a situation of serious but avoidable risk;
- over-frequent or inappropriate contact with/referral to outside agencies;
- a prolonged interval between illness/injury and presentation for medical care;
- if an adult who may be at risk lives with another member of the household who is known to the Police or welfare agencies in circumstances which suggest possible risk to the life/ health or well-being of that person;
- signs of misuse of medication:
 - not administered as prescribed;
 - over-medication resulting in apathy, drowsiness, slurring of speech,
 - under-medication resulting in lack of sleep, continual pain, etc;
- sudden increases in confusion (eg dehydration produces toxic confusion);
- unexplained physical deterioration in the adult at risk (eg loss of weight);
- demonstration of fear by the adult at risk to another person or demonstration of fear of going home;
- difficulty in interviewing the adult at risk (eg another adult unreasonably insists on being present);
- anxious or disturbed behaviour on the part of the adult at risk;
- hostile or rejecting behaviour by the carer towards the adult at risk;
- serious or persistent failure to meet the needs of the adult at risk
- signs of financial harm (eg a change in the ability of the adult at risk to pay for services, unexplained debts, or reduction in assets);
- carer as well as dependents showing apathy, depression, withdrawal, hopelessness and suspicion;
- unnecessary delay in staff responses to residents' requests;
- important documents are reported to be missing;
- pressure exerted by family members or professionals to have someone committed to care;
- a diagnosis of a sexually transmitted disease or infection, or a pregnancy, particularly where the adult at risk concerned is not known to be in an intimate or stable relationship.

Dilemmas in Adult Support and Protection

The protection of adults, like the protection of children, raises a variety of complex issues. There may be a number of conflicts which must be considered. Some of these are discussed in more detail below.

(a) Duty to Report

Staff have a duty to report suspicions or disclosures made about any adults at risk. While this may cause the individual staff member difficulties, a failure to report is a failure in their duty of care. Staff **must** report any concerns of suspected or actual harm to their line manager.

(b) Rights and Self Determination

There is a tendency for society to believe that adults at risk need to be protected and that their right to choose is secondary to this. Adults are individuals in their own right and, if they are able, must be allowed to exercise these rights even if that means they choose to remain in a situation which other people consider to be inappropriate or harmful. Every effort should be made to inform the adults at risk of the consequences of the choice he/she may be making. Where appropriate, use should be made of the local appropriate adult scheme, an independent advocate, communication aids or interpretation services. Further information on the appropriate adult scheme is provided in Appendix 3 - Appropriate Adults Tayside Service.

Working with adults at risk of harm poses considerable dilemmas for staff involved. If it is thought that the adult may have been the victim of a crime, for example assault, then he or she is subject to common law and the matter should be reported to the police even if the adult does not wish to make a complaint. If an adult is at risk - there may be a legislative basis upon which to intervene if he/she refuses help. The Adult Support and Protection (Scotland) Act 2007 makes provision for the application of three kinds of protection orders and a warrant for entry.

Further information on the issues of rights and self-determination is provided in Appendix 4 - Capacity and Consent. Reference should also be made to the Mental Welfare for Scotland's Guidance for professionals and carers when considering the rights and risks in sexual relations involving people with a mental disorder. ('Consenting adults' - MWC July 2010)

(c) Managing Risk

Concern over risk taking can stifle and constrain providers of care leading to an inappropriate restriction of the individual's rights. There is a challenge for people working in all care settings to define a way forward where they are able to take calculated acceptable risks and to allow risks to be taken. Further information on assessment, risk assessment and risk management are contained in Appendices 5a (Assessment, Risk Assessment and Risk Management) and 5b (Risk Assessment and Protection Plan).

(d) Consent/Confidentiality/Disclosure

All professionals who have contact with adults at risk have a responsibility to refer concerns/anxieties/disclosures to the appropriate agency. However, it should be

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

(e) Whistle Blowing

All organisations must have a policy on 'whistle blowing' which allows staff to alert organisations to matters of suspected or actual malpractice. Such policies should provide guidance, protection and reassurance to staff in order to encourage disclosures. This protocol encourages such disclosures, which are supported by legislation and organisational policies and procedures. (For further details see the Public Interest Disclosure Act or visit Public Concern at Work's website at www.whistleblowing.org.uk) All of the partners are committed to the concept of whistle blowing and to supporting staff who report unacceptable treatment of service users by managers or staff.

(f) Challenging Behaviour/Use of Restraint Techniques

There are some adults at risk who present challenging behaviour which requires to be managed either in their own home, day care setting, hospital or care home. This brings with it a number of dilemmas including issues of restraint and the administration of medication. Any action undertaken to manage an adult with challenging behaviour could be misinterpreted, potentially leading to an allegation of harm, therefore these issues require to be carefully assessed and recorded appropriately.

Organisations will have practice guidelines in place to assist staff members who work in settings where challenging behaviour is likely to be a feature. The decision to invoke any form of restraint should not be made by a single individual and as much collaboration as is appropriate should be undertaken.

There should also be formal recording, monitoring and reviewing of decisions to undertake any form of restraint. All agencies should have formal restraint procedures.

In the course of their duties, staff may be assaulted, and in these circumstances have a right to defend themselves. Appropriate training and support should be available to staff. Incidents of violence and aggression should be recorded using agency guidelines.

Further guidance about the issue of restraint can be found in the Mental Welfare Commission Guidance - Rights, Risks and Limits to Freedom.

(g) Allegations of Harm Against Staff Members

When an allegation of harm is made against a member of staff either formally by letter, or informally by telephone or in person, it is essential that organisations regard it seriously and initiate an investigation into the staff member's alleged behaviour through the organisation's own conduct procedures. The process would have to accord with any parallel investigation into the alleged harm. Consultation with the organisation's Human Resources/Personnel Section or equivalent and the line manager at an early stage is vital to determine the appropriate routes for such matters to be taken. In the absence of

an organisation's own Human Resources section or equivalent, it is advisable to make contact with the relevant local authority's Human Resources/Personnel Section.

(h) Domestic Abuse

The Adult Support and Protection (Scotland) Act 2007 does not specifically address domestic violence against women, domestic abuse or harm by a relative in a family home. It is, however, recognised that the use of the guidance may well be appropriate in certain cases of domestic violence or abuse. It will be particularly relevant when one of the partners meets the definition of an adult at risk. Further guidance can be sought by contacting Tayside Police Domestic Violence Officer or the lead officer of the local Violence Against Women Partnership.

What Degree of Harm, Mistreatment or Neglect Justifies Intervention

In determining what degree of harm treatment or neglect justifies intervention, The Law Commission suggests that:

“ ‘harm’ should be taken to include not only ill treatment (including sexual harm and forms of ill treatment which are not physical) but also the impairment of, or an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development”

The seriousness or extent of harm is often not clear when anxiety is first expressed. It is important, therefore, when considering the appropriateness of intervention, to approach reports of incidents or allegations with an open mind.

In making any assessment of seriousness the following factors need to be considered:

- the vulnerability of the individual;
- the nature and extent of the harm;
- the length of time it has been occurring;
- the impact on the individual; and
- the risk of repeated or increasingly serious acts involving this or other vulnerable adults.

Further information on assessment, risk assessment and risk management are contained in Appendices 5a (Assessment, Risk Assessment and Risk Management) and 5b (Risk Assessment and Protection Plan).

Information Sharing and Confidentiality

All professionals and agencies offering support or services to adults at risk are required to keep confidential information given to them in the course of their work. All professionals and agencies should keep clear, legible and up to date records of:

- contact with the adult at risk, and his/her family/ carer(s);
- information held and consents on information sharing;
- assessment and care planning, including adult protection plans, and any changes as a result of reviews of these;
- contact with other agencies, including the date and content of information shared or discussions held; and
- details of the person making the record with dates of recordings.

Disclosure of personal information is governed by the Data Protection (Scotland) Act 1998 and its accompanying guidance.

Personal data covers both facts and opinions about a living individual, which might identify that person. The provisions of the Act ensure that personal information held about any individual cannot be used for purposes other than for which it was originally supplied without the individual's consent. This prevents unauthorised disclosure of a wide range of information.

There are several important exceptions to this set out in the Act and related guidance. These enable data to be disclosed to safeguard national security, to prevent or assist in the detection of a crime or to protect the vital interests of the person. This means that information given to professionals by their patient, client, or service user should not be shared with others without the person's permission unless the safety of the person or other people may otherwise be put at risk.

All agencies working with adults at risk should have in place an information sharing policy which makes clear how issues of confidentiality are to be managed.

All agencies working with adults at risk must ensure that clients/patients/service users are:

- informed of information sharing policies;
- asked what information they are willing to have shared freely;
- advised of the circumstances in which information will be shared without their consent, if necessary (where there is risk of death, serious harm or neglect)

When any professional or agency approaches another to ask for information they should be able to explain:

- what kind of information they need;
- why they need it;
- what they will do with the information; and
- who else may need to be informed, if concerns about an adult at risk persist. If a professional or agency is asked to provide information they should never refuse solely on the basis that all the information held by the agency is confidential.

When determining whether to share information they should consider:

- whether there is any perceived risk to an adult at risk which would warrant breaking confidentiality;
- what information the service user has already given permission to share with other professionals;
- whether they have relevant information to contribute - that is information which has, or may have, a bearing on the issue of risk to an adult at risk or others which

- would enable another professional to offer appropriate help, assist access to other services, or take other action necessary to reduce the risk to the adult at risk
- whether that information is confidential, already in the public domain or could be better provided by another professional or agency, or the adult at risk directly;
 - how much information needs to be shared to reduce the risk to the adult at risk; and
 - whether disclosure would be in accordance with the Data Protection (Scotland) Act 1998.

Public bodies have a duty to co-operate under Section 5 of the Adult Support and Protection (Scotland) Act 2007, including the sharing of information. The Act allows for information sharing when there is a perceived risk of harm to adults at risk. When concerns about the safety and/or welfare of an adult at risk require a professional or agency to share confidential information without a person's consent, they should tell the person that they intend to do so, unless this may place the adult at risk, or others, at greater risk of harm. They should tell him or her what information they will disclose and to whom. The professional should consider carefully all potential consequences for the adult at risk's welfare before making a final decision about whether or not to provide information requested. He or she should record the information which has been shared, with whom and the reasons for the decision carefully. The professional or agency may subsequently have to justify their disclosure, or refusal to share relevant information, to a court, commission, professional body or other forum.

It should also be noted that Section 10(1) of the Adult Support and Protection Act (Scotland) 2007 states that 'a Council Officer may require any person holding health, financial or other records on an individual the Officer knows or believes to be an adult at risk to give the records, or copies of them, to the Officer.' Further information on this matter is provided in Appendix 6 - Access to Records.

The Cross Boundary Working Group representing all three councils who are signatories to this protocol, Tayside Police and NHS Tayside have agreed the contents of The General Protocol for Sharing Information. Staff members should make themselves aware of the content of the General Protocol for Sharing Information and any information sharing/confidentiality policies, protocols and procedures produced by their own agency.

Health staff are governed by particular guidance which places a requirement on staff to breach patient confidentiality under certain circumstances. 'The Code: Standards of conduct, performance and ethics for nurses and midwives provides the detail and guidance should be sought from the Director of Nursing.

It should be noted that, as a regulator, the Care Commission has exemptions under the Data Protection Act and may require information to be shared out with the stated parameters.

Sharing Information with Relatives and Carers

Those involved in working with adults at risk may also have to consider whether or not to share information with carers or relatives of the adult at risk. In general terms information given to professionals by the adult at risk, or acquired during an investigatory process, should not be shared with others without the person's permission unless the safety of the person or other vulnerable people may otherwise be put at risk. The professional should consider carefully all potential consequences for the adult at risk's welfare before making a final decision on whether or not to disclose information. All decisions, along with reasons, must be recorded.

Ordinary Residence

If the adult at risk lives, or is temporarily placed, out with Tayside's geographical boundary but Angus, Dundee City or Perth & Kinross Council have responsibility for the placement:

- The protocol that operates within the local authority where the harm, mistreatment or neglect occurred will apply; and
- Angus, Dundee City or Perth & Kinross Council must arrange for a social worker to be allocated to support the adult at risk.
- The same protocol would apply to the 3 Tayside authorities e.g. In the case where an Angus client is placed temporarily in Dundee and there are allegations of harm, mistreatment or neglect, a Dundee Council Officer will be allocated to investigate. Angus Council would be responsible for allocating a social worker to support the adult at risk.

If the adult at risk lives within Tayside but another local authority has responsibility for the placement:

- Tayside's Protocol will apply;
- a Council Officer will be allocated from the relevant investigating agencies within Tayside; and
- a referral will be made to the relevant social work team within the placing authority for a social worker to support the adult at risk.

Young adults who are care leavers, or who have been children with special needs, and are still in receipt of full time education remain the responsibility of the children and families service. Young adults, who are 16 -18, and are subject to statutory supervision, also remain the responsibility of the children and families service. Liaison should take place with the relevant children and families team and a decision taken as to who will investigate.

Notification of Critical or Significant Incidents and Sudden Death Inquiries

Local Authority Social Work Services have procedures in place regarding the reporting of critical or significant incidents. When harm to an adult at risk meets the definition of a critical or significant incident the steps outlined in the relevant procedure should be followed including, where appropriate, the submission of a report to the Mental Welfare Commission.

A “sudden death” is regarded as a death resulting from violence, suicide and unknown or suspicious causes. All deaths of this nature must be investigated by the police and a detailed report of the circumstances submitted to the Procurator Fiscal.

The manager of any regulated service should provide information to the Care Commission under the “Notification of Serious Incidents” procedures. Failure to do so may be an issue of fitness affecting registration.

Agencies should also have in place procedures for supporting staff involved in critical or significant incidents. Such procedures should include reference to the establishment of Critical Incident Management Groups which should involve Chief Officers and Procurator Fiscal.

Links to Other Agencies Operational Procedures

This protocol should be read in conjunction with localised policies and operating procedures used by agencies.

(a) Local Authorities

All three local authorities have their own operating procedures. These are based on this protocol but allow for local structures, roles and responsibilities.

(b) NHS Tayside

A procedure is available for NHS Tayside staff which identifies the steps to be taken by Health employees on the identification of harm. This procedure details the occasions when contact should be made with Local Authority Social Work staff and the steps to be taken. There is an understanding that, where the adult at risk is in a care home, hospital setting or based in the community, Social Work will be the lead agency responsible for any investigatory process.

(c) Tayside Police

Tayside Police provide a service across Tayside. When police officers are alerted to suspicions of harm, mistreatment or neglect, a full inquiry will be made into the suspicions or allegations. All investigations will be conducted in accordance with Tayside Police procedural guidance.

(d) Social Work Out of Hours Service

There is Out of Hours Service provision in the three Local Authority areas in Tayside. When Out of Hours Staff are alerted to harm reference should be made to this protocol and the relevant Local Authorities Operational procedures.

(e) Local Authority Social Work Procedures – Disciplinary Procedures

Each Local Authority Social Work Department will have specific disciplinary procedures which will be instigated whenever a staff member of the local authority is suspected or

accused of harm. Local authority members should make contact with their relevant Personnel Departments as soon as any accusation or evidence is identified.

(f) Codes of Practice/Conduct

All agencies covered by this protocol have their own codes of practice or conduct. Those who provide services, which require to be registered by the Care Commission, will also be governed by the Codes of Practice for Employers and Employees of the Social Services Workforce. A code of practice/conduct will usually include the expectations of the agency as an employer and of its staff as professional service providers or practitioners. Staff members should ensure that they carry out their duties in line with their professional code of practice/conduct. Voluntary and private providers will have their own procedures but will be bound into this Protocol by agreement and contract.

Resolving Disagreements

Angus, Dundee City and Perth & Kinross Councils along with Tayside Police and NHS Tayside will ensure multi-agency and multi-disciplinary co-ordination of complex cases at a sufficiently senior level to provide appropriate management oversight, effective information sharing and accountable practice. Arrangements should include a mechanism for the articulation and resolution of disputes among staff.

Step By Step Guide

Steps 1 - 5 cover the actions to be taken by staff from any agency who have concerns about the welfare of an adult at risk. Steps 6 - 10 cover the actions to be taken after a referral has been made to the Community Care Services of the local authority. Further information on roles and responsibilities is provided in Appendix 7 - Roles and Responsibilities.

Step 1

Concern or initial referral about an adult at risk³

- 1.1 Person Responsible** - The staff member who witnesses, suspects or receives information about an adult at risk allegedly being subject to harm, mistreatment or neglect. It should be noted that staff members of agencies have a duty to report suspicions or disclosures about adults at risk of harm.
- 1.2 Action to take**
 - 1.2.1** If the person requires urgent medical attention, go to Step 3.
 - 1.2.2** If the person does not require immediate medical attention and you suspect or have witnessed harm, mistreatment or neglect, speak to the person about your concerns. Ask the person what has happened (including whether it has happened before), who was involved, what the person thinks about the situation and what they want done about it. Also try to ascertain any potential risks to others.
 - 1.2.3** If the person chooses to disclose a previous incident to you, you must listen to what they have to say and obtain all the relevant information. It is important that sufficient information is obtained to allow your line manager to assess the situation without the need to re-interview the person.
 - 1.2.4** Record your conversation carefully and, if possible, ask the person to agree that you have made an accurate record of the conversation. Record the person's actual words in relation to their description of the event and their feelings about the outcome. Include the date and the time that the record was made.
 - 1.2.5** Tell the person that you are going to report the details of your conversation to your line manager. Go to Step 4.
 - 1.2.6** If the person does not give consent to your proposed actions, go to Step 2.

³ It should be noted that there may be more than one adult at risk

Step 2

When an adult at risk does not give consent to action being taken

2.1 People Responsible - The staff member and their line manager

2.2 Action to be taken

2.2.1 If the adult at risk does not want any action taken, his or her wishes should be respected unless any of the following applies:

- it is not clear if the person has capacity (in such cases there should be an assessment of capacity);
- if the person has been shown to lack capacity;
- he or she or others are at risk;
- it appears likely that a criminal offence has been committed;
- it is a requirement of legislation;
- there are public health concerns; and/or
- it is suspected that the adult may be under undue pressure

Further details on undue pressure are provided in Appendix 8 - Undue Pressure.

2.2.2 If there is a child at risk contact should be made with the local child protection team/service in accordance with Multi- Agency Child Protection Guidelines.

2.2.3 If the person is a resident of a care home or a patient in a hospital, it is important that any suspected or alleged incidents of harm, mistreatment or neglect are reported in order to protect other residents or patients regardless of the adult at risk's wishes. In these circumstances, it must be explained to the person that the referral has to be passed to the Community Care Services. Further details of harm which occurs in regulated care settings is provided in Appendix 2 - Harm in Various Settings.

2.2.4 Record your conversation with the adult at risk carefully. Record the person's **actual** words about what they want to happen. Include the date and time the record was made.

2.2.5 Tell the person that you are going to report the details of your conversation to your line manager.

Step 3

When immediate medical assistance or police involvement is needed because a crime may have been committed

3.1 Person Responsible - The staff member

3.2 Action to be taken

3.2.1 Urgent medical assistance should be provided and issues of consent or capacity should not prevent this. Contact the appropriate emergency service particularly if an adult at risk appears to be in immediate need of medical attention or if there appears to be evidence of physical or sexual harm.

3.2.2 Inform the Police if it appears that a crime may have been committed.

3.2.3 Staff must be aware of the need to preserve evidence. This may include:

- Securing the scene and keeping area as sterile as possible until police arrival. Obviously this may not be possible if urgent medical attention is required.
- Do not clean up any blood stains or other body fluids.
- Preserving any clothing and bedding.
- Leaving any potential weapon in situ, unless it is causing a danger.
- Pointing out any potential CCTV evidence to police.

3.2.4 All action taken must be recorded and discussed with a line manager or an alternative manager. (Go to Step 4).

3.2.5 Staff members should not put themselves at risk and should follow their agencies procedures and guidance on safe working practices.

Step 4

Consultation with a Manager

4.1 People Responsible - The staff member and the line manager.

4.2 Action to be taken

4.2.1 The staff member will discuss the suspected or alleged harm, mistreatment or neglect with his/her line manager as soon as possible. If his or her line manager is not available, the staff member will discuss the concerns with a suitable alternative manager. The full facts and circumstances of the situation, together with all available options and courses of action, should be identified and discussed.

4.2.2 A plan of action should be the outcome of this meeting/discussion. The following points, amongst others, should be taken into account in decision-making and in the formulation of the plan of action:

- An immediate referral to the Community Care Services. Where it is known that there is a current worker involved with the adult at risk, a referral should be made to that worker.
- The person's level of capacity and consequent involvement in actions, choices and decisions.
- If the staff member's organisation is external to the Local Authority, contact should be made with the local access point for Adult Support and Protection in the Local Authority Social Work Service so that the concern can be discussed and appropriate action taken. Further information on local contacts are provided in Appendix 9 - Local Contacts.
- If the concern raised is from another service within the Local Authority, staff should report to the line manager, who should discuss the concerns with the Duty Social Worker or Team Manager in the Social Work Department so that the concern can be discussed and appropriate action taken.

Step 5

Referral to the Local Authority Community Care Service

5.1 Person Responsible - The staff member making the referral.

5.2 Action to be taken

5.2.1 The staff member making the referral to the Community Care Service should include all the relevant details where known relating to the case:

- Name, address, date of birth, ethnic origin, gender, religion, type of accommodation, family circumstances, support networks, physical health, any communication difficulties, mental health and any associated statutory orders, or whatever information is available.
- The staff member's job title and the reason for their involvement.
- The nature and the substance of the allegation or concern.
- Details of any care givers and/or significant others.
- Details of the alleged perpetrator(s), where appropriate, and his/her/their current whereabouts and likely movements over the next 24 hours, if known.
- Details of any specific incidents (e.g. dates, times, injuries, witnesses, potential evidence, (such as, bruising).
- Background relating to any previous concerns.
- Any information given to the person, their expectations and wishes, if known.
- A record must be kept of all actions taken and decisions made.
- A referral can be made by telephone however, the person referring must confirm the referral in writing but this should not delay or impede action.

Step 6

Receiving a Referral into the Local Authority Community Care Service

6.1 **Adult Protection referrals must take priority over all other work. Referrals must be the subject of an immediate assessment.**

The circumstances, in which the duty to make inquiries arise, vary. Concern that a person may be an 'adult at risk' can arise in relation to new referrals, reports or allegations including anonymous referrals, about a person who is not currently known to the Community Care Service. A person who is a current service user may, because of an incident or a change in circumstances, become an 'adult at risk' when previously they were not. By whatever means we come to know or believe that a person is an adult at risk, the statutory duty to make inquiries applies. The duty to inquire arises whether or not the adult is aware that concerns have been raised, and is not contingent on the adult consenting to a referral.

6.2 **People Responsible** - The staff member receiving the referral and the Team Manager.

6.3 **Action to be taken**

6.3.1 The staff member receiving the referral should ensure that the details in Step 5 are covered. In all cases where adult protection concerns have been expressed, deciding how to respond, and planning to do so is the responsibility of the allocated Council Officer and their Team Manager.

6.3.2 At the earliest opportunity after adult protection concerns have arisen, there must be an initial discussion between the allocated worker - the Council Officer - and their Team Manager. The Council Officer should discuss the situation with their Team Manager or with a suitable alternative manager **as soon as possible that day**. Consideration must be given to the mental capacity of the adult at risk. In cases where the adult at risk has a capacity issue and/or a mental health disorder, it may be appropriate to involve a Mental Health Officer (MHO).

Sufficient information must be gathered to establish that the person referred meets the criteria for an 'adult at risk' and that the circumstances constitute 'harm'. The local client information system should be checked to ascertain if the person or the alleged perpetrator is known to the Social Work Service. If known to Children's Services, Community Care Services or Criminal Justice Services the allocated social worker should be notified.

Relevant involved agencies (including the person's GP) should be contacted for more information. The Public Protection Team, Tayside Police should be contacted to check if the alleged perpetrator(s) is/are known to the police and to decide if a joint visit is appropriate.

6.3.3 The Team Manager should complete appropriate documentation and make one of the following recommendations:

- no further action;
- refer to appropriate agencies

- refer to/retain within Care Management services; or
- allocate Adult Protection Inquiry status.

If the criteria are met, there is a duty under the Act to inquire into the adult's wellbeing, property or financial affairs.

Recording the outcomes ensures that this information will be available for future data management purposes. The outcome must also be recorded on event recording and will contribute to the person's chronological history.

6.3.4 If the recommendation is 'adult protection inquiry status' the Team Manager will establish:

- a) whether any action is needed immediately (e.g. does the adult at risk need to be removed to a place of safety and/or require medical assessment or attention?); or
- b) whether immediate action would cause more distress or would pose a greater risk.

Visits will be arranged depending on the situation:

- critical – visit the same day;
- urgent – visit within 48 hours; or
- non-urgent – visit within two weeks at the discretion of the manager⁴.

The Team Manager should consider the allocation of a second worker to support the Council Officer on the visit. If it is decided not to visit the adult at risk of harm that day then the reason for this decision must be recorded.

Further information on medical examinations is provided in Appendix 10 - Medical Examinations.

6.3.5 The Team Manager will record the initial steps which are to be taken in pursuance of the inquiry, including a recommendation as to whether an initial referral discussion or Adult Protection Case Conference should be convened.

If it appears that a criminal offence may have been committed, the matter must be immediately reported to the police.

Further information on conducting an initial referral discussion is provided in Appendix 11 - Organising and Chairing Initial Referral Discussions.

6.3.6 Any allegation concerning a member of staff, (employed by the Council, Health or a Private or Voluntary Organisation), whether in their personal or professional life, must be reported to the responsible line manager, Service Manager or Head of Service.

6.3.7 If the alleged perpetrator is under 16 years of age or is a vulnerable adult, Children's Services or the appropriate locality or specialist community care team should be contacted, to check if he or she is known or if a worker is to be allocated to the alleged perpetrator in his or her own right. The Police will also

⁴ If at the 'outcome of initial referral discussion' stage a recommendation is agreed that an urgent visit is required, the visit need not be postponed until after an initial referral discussion is held.

decide if the services of an appropriate adult are necessary. Further information on the appropriate adult scheme is provided in Appendix 3 - Appropriate Adults Tayside Service .

If the alleged victim is thought to be pregnant and there are concerns about potential risks to the unborn baby a planning meeting should be arranged involving social work staff from Children's and Adults services and appropriate health staff. This meeting should ensure that a pre-birth risk assessment is completed in line with the relevant Child Protection Operational Procedures to determine the risk and the need to ensure the safety and well-being of the unborn baby

6.3.8 If the alleged harm has occurred in a care home or in a day care establishment or is alleged to have involved someone from any other service which is registered with the Care Commission, contact should be made with the Care Commission by the Team Manager. The Team Manager is also responsible for informing the Mental Welfare Commission, the Office of the Public Guardian, the manager of the relevant service, Tayside Police and the Social Work Department Out of Hours Service, where appropriate. Further information on local contacts are provided in Appendix 9 - Local Contacts.

6.3.9 Recording is mandatory and critical in all adult protection cases. In all cases which are accorded adult protection inquiry status after the 'outcome of initial discussion' stage, the allocated Council Officer shall complete all relevant paperwork.

If the agreed outcome of the initial discussion is 'no further action', a detailed record must be completed which will include an account of the circumstances which gave rise to the initial adult protection concerns, as well as a clear account of the reasons why the case has not been accorded adult protection inquiry status.

Any correspondence received or sent in relation to the case must be cross-referred to in the case records including any electronic correspondence.

6.3.10 If, at the outset of an adult protection inquiry, or indeed at any stage of its progression, it appears that a criminal offence may have been committed, the matter must be immediately reported to the police. It is up to the Police to decide whether or not an investigation needs to take place.

The Team Manager, or if the manager considers it appropriate, the allocated Council Officer shall report the matter to the Force Duty Officer who will decide what action to take. It is essential to agree with the police what actions are to be taken, and by whom, including whether or not a joint visit would be appropriate in the circumstances and to ensure that clear arrangements are established for liaison between social work and police throughout the inquiry.

Further information on referrals to the police is provided in Appendix 12 - Notes on Referral Discussion with Police.

6.3.11 When a case has been assigned 'adult protection inquiry' status in accordance with the procedure outlined in 6.3.4 above, the Service Manager in Angus, Team Manager shall decide whether to call an initial referral discussion meeting.

Initial referral discussion meetings are recommended where information, which will be pertinent to the inquiry is held, or likely to be held by a range of parties who have not had an opportunity to come together to share that information.

Initial referral discussion should identify, where necessary, an action plan based on the shared information, which will detail the next steps to be taken in relation to the case, the person(s) responsible for taking those steps and the timeframe within which it is envisaged they will be carried out. NB Practice and timescales may vary across Tayside therefore staff should refer to their own operational guidance. If the action plan includes the need to hold an Adult Protection Case Conference then details of the actions to be taken to protect the adult at risk of harm in the meantime must be agreed and recorded.

Step 7

Assessment and Decision Making

7.1 People Responsible - The allocated Council Officer, the Team Manager and the Service Manager

7.2 Action to be taken

7.2.1 The Council Officer should undertake an investigation including an assessment of risk. This should involve staff from other agencies, as appropriate, in the gathering of information. Certain public bodies have a duty to cooperate under Section 5 of the Act. The investigation should take account of any previous concerns or reports about, or incidents involving, the adult at risk. Prior to the interview, consideration should be given to ensuring a safe interviewing environment, the use of communication aids and the use of an interpreter or of a support person. The person's living arrangements should be seen.

7.2.2 A visit arranged under Section 7 of the Act will be made to the adult at risk to ascertain his or her views about the situation and to determine the level of risk.

A Council Officer may visit any place in pursuance of the council's duty to inquire. Accordingly, the purpose of a Section 7 visit is to:

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

The place visited need not necessarily be the adult's own home and could be a place that the adult attends periodically such as a day care centre. Selecting an alternative venue will be desirable in cases of alleged or suspected familial harm, for example.

A Council Officer undertaking a visit may be accompanied by any other person. When planning a visit, the Council Officer and his or her Team Manager should consider whether the inquiry would be assisted by a joint visit with, for example, a health professional, police officer, or another person already known to the adult.

Further information on interviewing is provided in Appendix 13 - Notes on Joint Investigative Interviewing.

If a suspected crime is to be investigated by the police, the appropriateness or otherwise of a joint visit with the police will have been agreed when the matter was reported to them in accordance with paragraph 6.3.2 above.

If the adult at risk of harm is under a local authority administered Guardianship Order the worker to whom the Guardianship duties have been delegated cannot be involved in carrying out the investigation.

7.2.3 The timing of visits needs to be considered. Section 36(1) of the Act states that a Council Officer may visit a place at reasonable times only. The expression 'reasonable times' is not defined in the Act. The Code of Practice states that it is recognised that the level of concern may be such that an immediate visit may

need to be undertaken at a time that might not otherwise be regarded as reasonable. It also states that Officers involved will need to use their professional judgement in this regard.

- 7.2.4** The Team Manager should ensure that the Council Officer has the support he or she requires during the investigatory process. Supervision should be ongoing throughout the investigation and decisions clearly documented and attributed.

7.3 If access is gained

- 7.3.1** The Council Officer should interview the adult at risk and any other adult present, as appropriate. The adult at risk should be assisted to participate as fully as possible in the proceedings. He or she must be informed before the interview that they are not required to answer any questions (Section 8 of the Act).

- 7.3.2** The Council Officer should conduct the interview and the supporting worker should take detailed notes. Both workers should observe the reactions of the adult at risk and the dynamics of personal relationships. They should assess the environment. Depending on the circumstances, it may be appropriate to view the sleeping arrangements. It may be appropriate to consider independent advocacy and to discuss this with the adult at risk.

Adult Protection visits and interviews are expected to adhere to certain requirements stipulated in Sections 8 and 36 of the Act.

A Council Officer must, while visiting any place (or conducting an interview), produce evidence of his or her authorisation to visit the place (or conduct the interview). It is also essential that he or she explains clearly that the purpose of the visit is to assist with inquiries about the nature and level of any risk to the adult, and to decide whether action is needed to support and protect them. After this has been stated, the adult must be informed that they are not required to answer any questions. A Council Officer does not have the authority to ignore an adult's refusal to participate in an interview; however it is important to give them a reasonable opportunity to engage with the process while respecting their right not to do so.

- 7.3.3** The Council Officer should complete the relevant documentation which will include some professional analysis of the information gained in the process of the investigation.

At the earliest opportunity after the adult protection interview, the allocated Council Officer must report to his or her Team Manager. Consideration must be given to whether the findings during the visit confirm the adult protection concerns. Consideration should also be given to whether more information or any follow up interviews may be required, and what measures, if any, may be immediately necessary to support and protect the adult.

There are likely to be ongoing discussions with the Team Manager and with the Service Manager, as appropriate. These should be documented as a strategic discussion on detailed record sheets. The issues that are likely to be considered will be:

- adherence to the principles of the Act;
- if intervention is necessary;
- if a Mental Health Officer (MHO) is required;
- if the police should be consulted (see Appendix 12);
- other relevant legislation; (see Appendix 1)
- level of risk; (see Appendices 5a and 5b)
- duty to consider independent advocacy and other services;
- workers' safety;
- need for a case conference; (see Appendix 15)
- any undue pressure (see Appendix 8);
- need for medical examinations (see Appendix 10);
- need to access records (see Appendix 6); and/or
- Protection Orders (see Appendix 14);

The allocated Council Officer must then record the detail of the adult protection interview using relevant paperwork and present this to his or her Team Manager.

The Team Manager shall reassess and recommend:

- no further action;
- refer to/retain within care management; or
- continue with adult protection process

If the recommendation is to continue with the adult protection process, the Team Manager shall note clearly the next actions which are proposed, including a recommendation as to whether an Adult Protection Case Conference should be convened.

7.3.4 The Service Manager will decide whether an Adult Protection Case Conference should be convened. Consideration should always be given to holding an Adult Protection Case Conference, particularly in situations where there is suspected harm, or the threat or opportunity of ongoing harm. This also applies where the individual concerned has little or no insight into the risk to which he or she may be placing him or herself or, indeed, others. The case conference should be held within ten days of the investigation being completed.

The Service Manager may make a decision not to hold a conference when sufficient information is available to indicate that there is no risk to the adult. He or she should record why this decision has been made.

When making a decision about whether or not to hold a conference, the Service Manager must take account of any previous referrals and/or concerns about the welfare of the adult at risk. If more than two previous referrals have been received, which have resulted in no conference being held, the Service Manager should hold an Adult Protection Case Conference to allow agencies to come together to share information and concerns.

7.3.5 The alleged perpetrator should be informed⁵ of the allegations and that the local Authority has and will retain personal information on him or her except in the following circumstances:

- where to disclose to the alleged perpetrator may put the client or any other person at risk; and/or
- where to disclose to the alleged perpetrator would be likely to jeopardise the prevention or detection of a crime.

The Service Manager should be part of the decision-making process where a decision is made not to inform the alleged perpetrator of the allegation. Such a decision should be recorded.

If the alleged perpetrator is employed in a managed care setting external to the Council, the Registered Manager should share in this decision-making process.

7.4 If access is not gained

The Council Officer should discuss other options for entry with the Team Manager e.g. through contacting relatives or other professionals.

If these other options are not successful, a Warrant for Entry, under Section 37 of the Act, should be considered.

Consideration should be given as to whether access can be gained under other legislation e.g. Mental Health (Care and Treatment) (Scotland) Act 2003.

If all options have been considered and have been exhausted, Legal Services should be contacted to discuss the scope of what further steps might be taken. Applications for Protection Orders will be made by the Local Authority Legal Services on the basis of the information that has already been gathered. Further information on protection orders and their use is provided in Appendix 14 - Protection Orders.

⁵ The Service Manager will make the decision about who should inform the alleged perpetrator and how this should be done.

Step 8

Adult Protection Case Conference

8.1 Person Responsible – The Service Manager

8.2 Purpose of a Case Conference

8.2.1 A **case conference** is a multi-disciplinary meeting at which information relevant to concerns about harm or risk of harm is shared and considered. All Adult Protection Case Conferences and Review Case Conferences must be chaired by a Service Manager from within the Local Authority Social Work Department.

The purpose of a case conference is:

- to consider information obtained during the inquiry;
- to make a decision about the nature and level of risks; and
- to agree an adult protection plan.

Further information on protection case conferences is provided in Appendix 15 - Organising and Chairing Adult Protection case Conferences.

8.3 Action to be taken

8.3.1 When deciding whether or not to hold a case conference, the Service Manager must take account of any previous referrals/concerns about the adult at risk. If more than two previous referrals exist which resulted in no case conference being held, the Service Manager should hold one to allow parties to share information and concerns.

An initial Adult Protection Case Conference should be held within ten working days of the completion of an investigation by Community Care Services.

The meeting assesses risk, makes decisions on the actions which will need to be taken, and, where appropriate, agrees an Adult Protection Plan or reviews a plan that is already in place. The plan will include details of who will do what and when.

8.3.2 The attendance of relevant professionals at a case conference is crucial. Conferences should be attended by the social work staff involved in the adult protection inquiry and, where appropriate the police, and those professionals and voluntary or private sector staff who are directly involved with the adult and have a contribution to make. The Service Manager shall consider whether it would assist the decision making process to invite the attendance of others who can provide advice to the meeting, such as a member of the Legal Services Team or a Mental Health Officer.

8.3.3 Consideration must also be given to the attendance of the adult, family and carers. Wherever possible, the adult who is the subject of the case conference should be invited to the meeting. On occasion however, it may be considered not to be in the adult's best interests to attend and a decision to exclude them may be made by the Service Manager, who shall record the reasons in the minute of

the meeting. Where the adult has been excluded, or has chosen not to attend, the chairperson must ensure that the decisions of the case conference are conveyed to them as soon as practicable after the meeting.

There may be occasions when the adult wishes to be supported by the attendance at the case conference of a friend or other representative or a person from an organisation providing independent advocacy services. Support from such sources should whenever practicable, be encouraged.

Family members and carers should be invited to attend unless there are compelling reasons to exclude them, for example if their presence would undermine the purpose of the case conference or increase the risk to the adult. Individuals can be excluded from part of the meeting. The decision to exclude family members and carers from all or part of the meeting shall be made by the Service Manager chairing the meeting.

- 8.3.4** Relevant paperwork should be made available to those attending the case conference. This should provide the meeting with a chronological account of events beginning with the circumstances which gave rise to the initial adult protection concerns and the actions taken to date. Copies of any written reports prepared by other agencies should also be made available. Where practicable, the paperwork should be issued prior to the case conference. Otherwise, time will be allowed at the start of the meeting for the papers to be read.

Before the start of a case conference, anyone who believes there is any information that should not be shared with the person and/or his/her family or carers should advise the chairperson. If this is the case, discussion of this information will take place prior to the person and his/her family or carers joining the case conference. If there is no restricted information⁶ to be shared, then the person and his/her family or carers will participate in the whole conference.

A decision may be made by the Service Manager not to issue a copy of the relevant paperwork to the adult who is the subject of the case conference if serious harm might be caused to the individual or another person.

- 8.3.5** A minute of the case conference should be completed and should include an Adult Protection Plan and the agreed date of a Review Adult Protection Conference. If the adult had been invited to attend the meeting but chose not to do so, this must be recorded. Copies of the minute will be distributed within 10 working days to those present at the meeting and any other parties the meeting agreed should receive a copy. Any person disagreeing with the accuracy of the minute should notify the Service Manager in writing, and include a proposed amended text. The Service Manager must then decide whether to accept the proposed amendments. Any amendments should be made on the original copy of the minute. Amended papers will then be distributed to all those who received a copy of the original minute.

- 8.3.6** The Adult Protection Plan will list the actions agreed at the case conference which aim to remove or reduce the risk(s) to which the adult is exposed. The Plan

⁶ Restricted information includes information that would: disclose the identity of a third party; be likely to result in serious harm to the physical or mental health or emotional condition of the adult at risk of harm or any other person; be likely to prejudice the apprehension or prosecution of offenders.

will be completed by the Service Manager. The completed plan must be contained in the minute of the Adult Protection Case Conference.

The Adult Protection Plan will be based on the discussion and decisions made at the Adult Protection Conference. The Plan should cover:

- the assessed risks;
- actions proposed to address them, the individual(s) responsible for those actions as well as the timescale and desired outcomes;
- arrangements and supports in place;
- people's respective roles in the adult protection plan;
- the inclusion of weekly visits to the adult at risk by the allocated worker unless it is otherwise agreed and minuted;
- support for the adult e.g. victim support, independent advocacy;
- any legal steps to be taken to protect the adult; and
- a contingency plan - arrangements for immediate action for possible change in circumstances to be agreed.

The people responsible for the actions identified in the adult protection plan will be the core group who will work collaboratively towards achieving the outcomes identified as necessary to remove or reduce the risk.

For further information about organising, chairing and conducting Adult Protection Case Conferences, see Appendix 15.

Step 9

Implementation of Adult Protection Plans

9.1 People Responsible

Team Manager

9.2 Action to be taken

9.2.1 As soon as practicable, after the Adult Protection Case Conference, a meeting of the Core Group⁷ must be convened and chaired by the supervising Team Manager. The Core Group meeting shall agree how the work of the Core Group is to be co-ordinated and the timeframe for subsequent meetings at which progress will be reviewed.

9.2.2 If significant changes to the adult protection plan appear to be needed, or if the group considers that the adult protection status of the case should be reviewed, the Service Manager must be asked to convene a Review Adult Protection Case Conference.

9.2.3 The Team Manager will:

- monitor implementation of the Protection Plan to ensure that actions are carried out within timescales;
- ensure that ongoing Risk Assessment will be carried out to take account of changing circumstances and needs;
- chair the Core Group and is responsible for ensuring that the communication plan is adhered to. He or she will make sure that the core group meets monthly. The Core Group can be convened at any time following a request from any member of the group;
- ensure that the Communication Strategy is implemented; and
- will ensure that a copy of the Adult Protection Plan is held by every member of the Core Group. He or she will also ensure that Core Group meetings are recorded and minutes distributed.

⁷ The Core Group will include those Council and agency staff who are to be directly involved in the delivery of the protection plan. It may include others at the discretion of the case conference chair.

Step 10

Adult Protection Case Conference Review

10.1 Person Responsible.

Service Manager

10.2 Actions to be taken

10.2.1 All Adult Protection Plans must be considered at a Review Case Conference the date of which will have been agreed at the initial or subsequent review case conference. The meeting shall consider progress made in implementing the Adult Protection Plan and make a decision about the current nature and level of risks and agree changes to the detail of the Plan as appropriate.

10.2.2 Adult Protection Review Case Conferences should take place within 3 months of an initial Adult Protection Case Conference, or more frequently if required.

10.2.3 All relevant paperwork should be completed prior to Review Conference by the Council Officer.

10.2.4 The Review will consider the changes that have been made and will re-assess the level of risk for the adult at risk.

If there are still significant risks, the case will be monitored by Core Group meetings and regular Adult Protection Review Case Conferences.

If the risks are low the case does not need to remain under adult protection procedures. A decision that the adult protection status of the case should cease may be made at a review case conference if changes have taken place which significantly and demonstrably lower the risks. The Service Manager should ensure that essential recording takes place.

Assuring Quality In Work With Adults At Risk

When working with adults at risk

It is important that all agencies working with adults at risk assure the quality of the work undertaken by their agency and jointly with others. This guide may be used to help to set standards and to monitor the quality and effectiveness of work undertaken to protect adults at risk of harm.

Person responsible: A Senior Manager

- Senior managers should develop, maintain and review a framework for the inspection of case files, records (including supervision notes), and case conference minutes. Where appropriate, the framework should also include audits of clinical governance and clinical supervision.
- Senior managers should ensure that no open case which includes allegations of deliberate harm to a adult at risk is closed until the following steps have been taken:
 - The individual has been spoken to alone.
 - The individual's accommodation has been seen.
 - The views of relevant professionals have been sought and considered.
 - There is evidence that the individual's welfare will be safeguarded and promoted should the case be closed.
- A senior manager should ensure that when a professional from another agency expresses concern about its handling of a case, he/she reviews the file, meets and speaks to the professional concerned, and records in the case file the outcome of the discussion.
- A senior manager should ensure that all case conferences, reviews, meetings and discussions concerning adults at risk should involve the following four basic steps:
 - A list of action points must be drawn up, each with an agreed timescale and the identity of the person responsible for implementation.
 - A clear record of the discussion must be circulated to all those invited, whether or not they were present, and to all those with responsibility for an action point.
 - A mechanism for reviewing completion of the agreed actions must be specified, together with the date upon which the first such review is to take place.
 - Any supplementary actions that may be required as a contingency in the event of a breakdown in care arrangements or other changes in circumstances.

An Audit/Review Checklist

The following checklist may be used to “audit”/review cases of adults at risk to assess the level of risk and determine the quality of service. It is indicative and not exhaustive.

- Is there an allocated worker with the necessary skills and experience to work with the complexities of the case?
- Has all the relevant information been gathered from agency files, police, health and other involved sources?
- Is there a chronology of significant events and are the implications of these events understood?
- Is there a comprehensive assessment of risk and need?
- Is there evidence that the experiences of family members/carers have been taken into account when assessing risk?
- Is there an appropriate care or protection plan that is being effectively implemented and that is demonstrably reducing the assessed risk?
- Has statutory intervention been considered and are the decisions in respect of this correct?
- Are copies of all minutes and records of decisions in the case files: have these been circulated to relevant individuals; and are the case records up to date?
- Is there evidence that the adult at risk is being seen and spoken to on his/her own on a regular basis by the allocated worker and have his/her living arrangements been seen?
- Is there evidence of good communication and collaboration between social work services, (eg community care, criminal justice and children’s services and between social work and other key agencies eg health, police, housing, education)?
- Has the case been reviewed in accordance with procedures and has the individual been supported in contributing effectively to the review?
- Is there evidence that the staff member’s handling of the case is subject to oversight/review by his/her line manager?

A Glossary of Terms is provided in Appendix 16.