



Falkirk Council Adult Social Work Service

Adult Support and Protection Guidance for Assessment and Care Management Staff

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0.0 INTRODUCTION

Staff working within the Forth Valley area have a duty to identify and respond to adults who maybe at risk of harm. The [Forth Valley Multiagency Adult Support and Protection Guidance](#) apply to all agencies and their staff in all statutory, private and voluntary agencies throughout the Forth Valley Area.

This procedural guidance is to compliment the Forth Valley wide procedures and to give local, specific guidance to all staff working within the Adult Social Work Service Teams across Falkirk Council.

It is to assist professional staff to carry out the duties and functions as detailed in the [Adult Support and Protection \(Scotland\) Act 2007](#) (referred to as the 2007 Act) and accompanying [Code of Practice](#) published by the Scottish Government (referred to as Code of Practice).

This document sets out clear internal operational procedures to be followed when any member of staff encounters an incident or allegation of harm to an adult at risk or where such an incident is reported to the council.

The support and protection of adults at risk are the responsibility of **all staff** of Falkirk Council. Anyone encountering a concern about an adult at risk should refer to the Forth Valley ASP Practice Guidance **and** these local procedures.

For these procedures responding Adult Social Work Service Team means any of the following: Access Team, Locality Teams (EAST, WEST and CENTRAL), Home First, Integrated Learning Disability Team and Integrated Mental Health Team.

PURPOSE OF LOCAL PROCEDURE AND GUIDANCE

This local guidance does **not** replace the Forth Valley Multiagency Guidance but builds upon it. It assists all staff members to understand their responsibilities and provides operational practice guidance when working to protect adults at risk.

0.1 STRUCTURE OF THIS LOCAL GUIDANCE

There are ten steps to this procedure:

- STEP ONE – Reporting and Referral
- STEP TWO – Referral received by Adult Social Work Service Team
- STEP THREE – Consultation with Manager
- STEP FOUR – Inquiry without the use of investigatory powers
- STEP FIVE – Interagency Referral Discussion
- STEP SIX – Inquiry with the use of investigatory powers
- STEP SEVEN – Case Conference
- STEP EIGHT – Protection Planning and Support
- STEP NINE - Protection Orders
- STEP TEN – Monitoring and review

The recording of events, actions and decisions taken and the reasons for such decisions and actions is emphasised repeatedly. Good recording of information throughout the process is essential and is an important part of defensible decision making. These records should be evidence based and accurate.

All staff and managers must make sure that activity is recorded promptly after each event with prompt use of Liquid Logic (LAS) and the eIRD Management System (eIRD) This must be monitored by each team at their ASP Tracking Meetings.

0.2 RELEVANT PROCEDURES/GUIDANCE

It is important that all staff involved in adult support and protection recognise their duty to contribute to wider public protection duties. A concern that an adult is at risk can and might lead to information that other adults, or children are at risk. There is therefore a wide range of other procedures and guidance notes that professional staff need to be aware of so that they understand their broad duties to contribute to the protection of all those that might need support and protection across the lifespan.

These procedures should be read in conjunction with the ASP [Code of Practice](#) and all relevant Falkirk Council procedures/guidance, including but not restricted to:

[Forth Valley Multiagency Adult Support and Protection Guidance](#)

[Forth Valley Interagency Child Protection Guidance](#)

[Forth Valley Large Scale Investigation Protocol](#)

[Forth Valley Harm Reduction Protocol](#)

[Falkirk Escalating Concerns Guidance](#)

[Transition Planning Guidance for Staff working with Young People 16 - 18 years in areas of Adult and Child Protection Practice](#)

The above list is not exhaustive and other procedures and legislative frameworks and duties may apply. [The Forth Valley Practitioner Pages](#) should be used and accessed on a regular basis to ensure you are refreshed in important Public Protection guidance and procedure.

0.3 DEFINITIONS

WHO IS AN ADULT AT RISK?

For the purposes of these procedures the definition of an 'adult at risk' is that contained within the [Adult Support and Protection \(Scotland\) Act 2007](#) and accompanying [Code of Practice](#) commonly known as the 'three point criteria'

The Act defines an adult at risk as persons aged 16 or over 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.

Importantly, all three elements of this definition must be met ('the 3-point criteria'). It is the whole of an adult's particular circumstances, which may combine to make them more vulnerable to harm than others.

The [Code of Practice](#) clarifies that the presence of a particular condition does not automatically mean an adult is an "adult at risk". A person may have a disability or illness and still be able to safeguard their own interests etc. Equally, groups can be excluded from the criteria based on conditions which are poorly understood. It is the whole of an adult's particular circumstances, which may combine to make them more vulnerable to harm than others.

You are encouraged to review and reflect on the 'particular circumstances' section of the [Code of Practice](#) (pages 20 -24) which comments on trauma, suicide prevention, substance use, homelessness, hoarding, financial harm and young people.

These can be a complex assessments and simple verbal declarations of ability to safeguard should not be relied upon. As detailed in the outset of this guidance records should be evidence based and accurate. Assessments of the 'three-point criteria' must be fully documented including rationale for individual assessments based on available evidence of the adult's ability to safeguard.

A person's abilities to protect themselves can fluctuate and change over time. Furthermore, a person may be able to safeguard one area of their life and not able to safeguard other areas. Inquiry and use of investigatory powers is central to good quality assessment of the 'three-point criteria'.

0.4 SPECIFIC GUIDANCE ON DEFINITION OF ADULT AT RISK

The Code of Practice provides detailed and additional guidance on the assessment of the 'three-point criteria' for adult support and protection concerns in [Chapter 2: Principles and definition of an adult at risk](#). This chapter provides useful guidance on:

- Ability and willingness
- the effects of trauma and/or adverse childhood experiences
- coercive control
- undue pressure
- Substance Use
- Homelessness
- Self-neglect, including hoarding
- Financial Harm
- Young People

0.5 VULNERABLE YOUNG PEOPLE

In line with the need to pay particular attention to young people transitioning from children's services to adult services it is necessary to ensure that a young person's need for support and protection is managed in a way that ensures their safety.

Critically:

- Where the young person is 16 or 17 years of age consideration must be given to the protocol entitled Adult Protection/Child Protection Guidance for Referrals of Young People Aged 16 & 17 Years ([see Appendix 1](#)) to determine if the most appropriate response will be provided by child protection or adult support & protection procedures.
- If any concerns are also identified or arise regarding children under the age of 16 these must be referred to the local Children's Service Team within the terms of the [Forth Valley Interagency Child Protection Guidance](#).

0.6 DEFINITIONS OF HARM

Risk of harm is defined in Section 3(2) of the Act which makes clear that an adult is at risk of harm if:

- another person's conduct is causing (or 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.

The Act does not differentiate the source of the harm. Therefore, the adult can be harmed by another person, or by their own conduct (i.e. self-harm and self-neglect). Additionally, the harm could be caused by another person in need (or another adult at risk), a person known to the adult, a person working with the adult in a paid capacity or a stranger.

Furthermore, the Act does not differentiate between the settings where harm takes place. An adult can be at risk in their own home, in the community (such as public places), as a supported person in a care home, hospital, day service or any other setting. Harm can be perpetrated without physical contact with the adult, for example through a third party, by telephone or online.

'**Harm**' is defined in Section 53 of the Act, which states that 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.

Harm can also include:

- Sexual Harm
- Neglect and acts of omission
- Institutional Harm
- Discriminatory Harm
- Self-Harm and Self-Neglect

This list is not exhaustive, and no category of harm is excluded because it is not listed here. Domestic abuse, gender-based violence, forced marriage, human trafficking, stalking, hate crime and “mate crime” will also generally be regarded as forms of harm. Please see [Appendix 2](#) - Types of Harm and Descriptions for more detailed breakdown of harm types.

0.7 OMISSION OR COMMISSION?

Any or all these types of harm may be perpetrated either because of deliberate targeting of adults at risk or through negligence or ignorance. Therefore, harm can be accidental or intentional, it can also be a result of neglect or self-neglect or can be self-harm or attempted suicide.

In some cases, it may result from an extreme level of stress on an informal carer which may include aggressive or violent behaviour by the adult at risk towards the carer. In such cases a sensitive approach in supporting the carer must be combined with a determination to deal with the harmful behaviour and prevent it reoccurring. However, the welfare and protection of the adult at risk should remain at the forefront of any intervention.

0.8 SERIOUS HARM

The definition of harm that triggers our statutory duty to conduct an inquiry with or without the use of investigatory powers is that a person is known or believed to be an adult at risk of harm.

However, where an adult at risk of harm may need the support and protection of a Protection Order under the 2007 Act (see STEP NINE of this procedure for further details) then it will be necessary to evidence that the adult is at risk of serious harm.

Neither the 2007 Act nor the Code of Practice defines ‘serious harm’ apart from the Code noting that what constitutes serious harm will be different for different persons.

Where an application for a Protection Order is being considered, legal advice will be available from Falkirk Council solicitors. It may also be appropriate to seek advice from the ASP Lead Officer who will be aware of decisions taken in earlier cases. This should assist in establishing a consistent threshold for intervention across Adult Social Work Service teams when applying for Protection Orders.

0.9 COUNCIL OFFICER

The investigating officer has been given, within the 2007 Act, the title of **Council Officer**.

The definition of a Council Officer within the 2007 Act at Section 53(1) is that a Council Officer is an individual appointed by a Council under Section 64 of the Local

Government (Scotland) Act 1973. Section 53(1) also enables ministers to restrict the type of individual who may be authorised by a Council to perform Council Officer's functions.

Within Falkirk Council a Council Officer will be a person employed by Falkirk Council, who is a qualified social worker or occupational therapist who has at least 12 (twelve) months post qualifying experience of working with adults who are adults at risk of harm has completed their Council Officer Training and been authorised to carry out the role by the Head of Specialist Services.

The person must be:

- a) registered in the part of the Scottish Social Services Council register maintained in respect of social workers
- b) registered as an occupational therapist in the register maintained by The Health and Care Professions Council.

Falkirk Council shall not authorise a person to perform the functions of a Council Officer detailed in this guidance unless that person meets these requirements.

The Council Officer Authorisation form must be completed and is available at [Appendix 3](#). This will be sent by the overseeing Team Manager to the ASP Lead Officer and thereafter the Head of Specialist Services.

TEN STEP GUIDANCE FOR ALL STAFF

All staff involved in any way with adults who might be adults at risk have a responsibility to identify and act whenever there is a concern that an adult may be at risk. For examples of types and indicators harm please (see Appendix 2). You can also find good information and guidance on the Scottish Government's Act Against Harm website [here](#)

Another useful tool for considering thresholds for recognition and reporting of harm is the Forth Valley THRESHOLD MATRIX – GUIDANCE FOR ASSISTING THOSE WORKING IN SUPPORTIVE SETTINGS TO MAKE ADULT SUPPORT AND PROTECTION (ASP) REFERRALS which is available on the Practitioner Pages [here](#)

The following guidance breaks actions into specific steps in the ASP process. While for many situations such steps will and should occur in the sequence described here there can be situations where, for good reasons, a step or particular action takes place out with this sequence. In such circumstances the staff member involved (and/or the manager who is overseeing their actions) must record the reason for the change. Similarly, if there has been a delay with actions a reason should be clearly recorded.

1.0 STEP ONE

REPORTING AND REFERRAL

1.1 SITUATIONS WHERE AN IMMEDIATE RESPONSE IS REQUIRED

It is likely most referrals will not involve imminent risk or an emergency response. They will come to attention either by direct contact with the adult at risk or be received as a referral from an external source.

However, when any member of staff receives information that an adult may be imminently at risk of harm, the first task will be to take immediate action to try and protect that person. In such circumstances it is accepted that a staff member may need to make a decision, based on the urgency, without consultation with a manager.

SITUATIONS OF IMMINENT SIGNIFICANT RISK

When the adult may be at imminent significant danger the staff member must:

- Refer that person immediately to emergency services – Police and/or ambulance, fire service
- Having taken the above action, notify their line manager immediately, record timeously on LAS, noting a significant event, all events, actions and reasons for actions
- Refer the matter immediately to the relevant Adult Social Work Service Team

1.2 SIGNIFICANT OCCURRENCE

All staff must be aware of circumstances when significant occurrences (serious incidents) need to be reported. The Adult Social Work Service Significant Occurrence Procedure is designed to ensure direct communication of significant occurrences affecting named service users in adult social work services to the Senior Management Team for the Health and Social Care Partnership. This procedure ensures that senior managers are notified of significant and serious incidents quickly and in a consistent way. (available drive - S:\Significant Occurrence)

1.3 RESPONSE TO RECEIVING A VERBAL OR WRITTEN ASP REFERRAL

The ASP Code of Practice states that any referral, including those made anonymously must be treated seriously. That all referrals should be considered with an open mind without assuming that harm has, or has not, occurred. Staff must apply good professional curiosity and multiagency inquiry to all reports of harm to avoid any missed opportunities to identify less obvious indicators of harm.

All referrals must be given a carefully considered and measured response. Key parts of that response must be to:

- record the referral by creating a new contact on LAS and uploading any documents
- check what existing information is known about the adult and any others named
- recognise any escalation
- consult with and take advice from an appropriate senior member of staff.

There are different responses depending upon the manner of the referral:

- When a concern is referred directly to the allocated worker that worker must record the referral/concern and must then consult their Team Manager/Assistant Team Manager within the same working day and follow the process from Step 2.
- When the Contact Centre receives a referral, they will immediately (on the same working day) pass the referral to the relevant Adult Social Work Team and be clear that the referral relates to adult support and protection concerns.
- When such a referral is received by a Customer and Business Support staff member within an Adult Social Work Team, they must check the information recording system and pass on calls/written referrals as outlined below making the recipient aware that the referral relates to adult support and protection concerns.

1.4 Referral pathways for Customer and Business Support (CBS)

These pathways apply to **all** responding Adult Social Work Service Team including Locality Teams (EAST, WEST and CENTRAL), Home First, Integrated Learning Disability Team and Integrated Mental Health Team. The pathways are set out in a flowchart available at [Appendix 4](#).

1. **Allocated Cases** – CBS staff will pass the call/written referral to the allocated worker. They must check that the worker is available that day. If the worker is not available, the referral must be passed to the Duty Assistant Team Manager for the Team in which the case is allocated.
2. **Cases on a Team Pending List** – CBS staff will pass the call/written referral to the Duty Assistant Team Manager for the team the case is pending to.
3. **Closed Cases** - CBS staff will pass the call/written referral to the Duty Assistant Team Manager of the relevant Locality Team.
4. **New Cases** - CBS staff will pass the call/written referral to the Duty Assistant Team Manager of the relevant Locality Team.
5. **Closed or New Cases with a hospital admission (includes all Forth Valley hospital sites)** – CBS staff will pass the call/written referral to the Duty Assistant Team Manager of the Home First Team.
6. **Closed or New Cases where the adult is in one of the hospital assessment wards (i.e. no admission)** - CBS staff will pass the call/written referral applying pathways 1. – 4.
7. **New Cases where an adult is homeless or from another authority area but who is temporarily in Falkirk** - CBS staff will pass the call/written referral to the Duty Assistant Team Manager of the relevant Locality Team. (The responsibility for the ASP response rests with Falkirk Council. However, the local authority where the adult normally lives should be contacted immediately and advised of the referral. A joint inquiry may be appropriate)

It may be necessary, on occasion, for CBS staff to take a telephone number and have the relevant worker or team call the referrer back.

CBS staff must send the ASP Acknowledgement to the referrer within 24 hours using the proforma ([see Appendix 5](#)) and record this in the adults LAS case notes.

1.5 STAFF MEMBER WHO IS IN DIRECT CONTACT WITH AN ADULT AT RISK OF HARM

1.5.1 If an incident is witnessed by a staff member or a disclosure made to them by the adult at risk or others, the staff member should:

INFORMATION TO SEEK

- ✓ Ensure they can communicate effectively with the adult at risk or seek ways of achieving effective communication
- ✓ Ask the adult what has happened. If appropriate seek details of dates, times, injuries, witnesses and possible other victims (WHO? WHAT? WHERE? WHEN?).
- ✓ Establish details of the alleged perpetrator(s) if possible
- ✓ Ask the adult what they think of the situation and what they want to happen.
- ✓ Speak to the adult about the concerns and the risks
- ✓ Seek the adult's consent to take further action. Where the adult does not give consent to further action the staff member must inform that adult of their need to consult with their manager about the need for further action to be taken.
- ✓ Reassure the adult that they will be kept informed as far as possible
- ✓ Ensure the adult has any necessary immediate support and/or has information on how to seek this.

1.5.2 The staff member will discuss all information with their Team Manager (or other appropriate manager) as soon as possible and always on the same working day. They must record timeously (the same working day or no later than 24 hours) on LAS, all events, actions and reasons for actions. The process from (step 2) receipt of referral should then be followed. In the event of this information being received after 5pm the staff member should share information and discuss with Social Work Emergency Duty Team (EDT) any immediate further action or interim safety planning which may be required.

2.0 STEP TWO

REFERRAL RECEIVED BY ADULT SOCIAL WORK SERVICE

- 2.0 When an Adult Social Work Service member of staff receives information from another source about an adult at risk of harm they must firstly establish if that person is at significant risk and an immediate response is required. If so, then the emergency services should be contacted (as described in 1.1 above).
- 2.1 When the risk is not believed to be immediate the need to establish as much relevant information as possible is paramount. Staff members must, as a minimum, seek:

REFERRER AND HARM DETAILS:

(Form API can be used as a useful prompt for asking the right questions)

- ✓ Name, address, job title, contact details, method of contact of referrer
- ✓ Full information about the nature of the harm, to include e.g. dates, times, injuries, witnesses, supporting evidence and other possible victims
- ✓ Details of any previous concerns and any other relevant information
- ✓ Establish, where applicable as many details of the alleged perpetrator(s) as possible (including details of any contact with other adults at risk)
- ✓ If the alleged perpetrator is employed by a Registered Care Provider check that the provider has notified the Care Inspectorate.
- ✓ Check LAS records and consult with Children's and Justice Services as required.
- ✓ Agreement to re-contacting the referrer should further information be needed
- ✓ Advise the referrer that the Multi Agency Adult Protection Referral form (referred to as the API form) must be submitted ([See Appendix 6](#))
- ✓ Check the API form is received within appropriate timescale

ADULT AT RISK DETAILS

- ✓ Name, date of birth, address, phone number(s), gender, ethnicity, living circumstances, family members
- ✓ Any communication support needs for the adult
- ✓ Information on their physical and mental health
- ✓ Any known supports, professional involvement and statutory orders
- ✓ The adults' views and wishes in respect of the report of harm
- ✓ The referrers opinion of the adult's ability to make informed decisions about their own safety
- ✓ Possible need for an Appropriate Adult if police interview is indicated.
- ✓ If there is a Welfare or Financial Guardian or Power of Attorney and if so, contact details.

2.3 STAFF MEMBERS RESPONSE

- 2.3.1 The staff member receiving the information can use the form API to record this to ensure all areas are covered. They must ensure this information is recorded on the Adult at Risk's LAS record as a matter of priority on the same day (and no later than within 24 hours in exceptional circumstances). This involves creating a new contact record on LAS.
- 2.3.2 The staff member receiving the information can use the form API to record this to ensure all areas are covered. They must ensure this information is recorded on the Adult at Risk's LAS record as a matter of priority on the same day (and no later than within 24 hours in exceptional circumstances). This involves creating a new contact record on LAS.
- 2.3.3 The staff member must record a new chronology item on the adults LAS record to list the report of harm received. The API form must also be uploaded to the system.
- 2.3.4 This guidance does not seek to duplicate the LAS ASP recording guidance, full step by step guidance detailing LAS ASP recording can be accessed by clicking the help button on the LIVE system.



- 2.3.5 It is important that staff, in addition to recording the actions they take also provide an explanation why such action was decided. The reasons for acting in particular way add important details to the record and are an important element of defensible decision making.
- 2.3.6 For further information on actions and timescales required by the staff member please see the Flowchart and Timescales for Responding to ASP Referrals ([Appendix 7](#)) and ASP Procedures Checklist for Council Officers ([Appendix 8](#))
- 2.3.7 Sufficient information must be gathered (if available/possible) to establish if the person referred meets or is likely to meet the criteria for an adult at risk (the "3 point- criteria").
- 2.3.8 LAS must be checked to ascertain if the alleged perpetrator/harmer is known to Social Work Services and any key worker/allocated worker should be notified to ensure that any appropriate action is considered to minimise risks while the inquiry/use of investigatory powers is planned.
- 2.3.9 If the referral is made by phone by a member of staff from other parts of Social Work Services, registered care provider or other professional it must be confirmed in writing using form API within 24 hours.
- 2.3.10 Other than situations of significant risk when an immediate response is required (see section 1.1) the staff member should then review all LAS records to establish background information and in particular details of any previous adult and/or child protection concerns.

- 2.3.11 The staff member must record a new chronology item on the adults LAS record to list the report of harm received. The API form must also be uploaded to the system.
- 2.3.12 Checks must be made with the Children's and Justice Services to determine if any information is known about any party that might be involved in the referral.
- 2.3.13 When the concerns relate to a registered care provider confirmation should be sought that the care provider has notified the Care Inspectorate.
- 2.3.14 In many referrals the subject will be one person. However, staff need to be aware that for some referrals more than one adult (or child) may be regarded as potentially at risk of harm. In cases where it appears that two or more adults may be at risk of the harm from a single referral or multiple referrals the staff member must ensure this is specifically discussed with and acknowledged by the Team Manager/Assistant Team Manager. In such situations consideration must be given to whether the Large-Scale Investigation protocol should be considered and/or instigated. For details of this see the [Forth Valley Large Scale Investigation Protocol](#).
- 2.3.15 For allegations of harm indicating a staff member or carer as the alleged perpetrator of harm please see the table below and [Appendix 9](#) for further guidance.

ALLEGATION INVOLVING STAFF MEMBER OR PAID CARER

This procedure applies to all support and protection concerns. When the allegation relates to a member of staff or paid carer these procedures must be followed.

In such situations the line manager of that staff member must take action to ensure the staff member has no ongoing contact with any vulnerable people (adults or children) until an initial risk assessment or, if required, a full investigation has taken place. This risk assessment decision must be recorded fully including the rationale for the decision. It will be the continuing responsibility of the line manager to provide support to the staff member.

A referral must be made to the Adult Social Work Service Team who will take a lead role for the ongoing protection of the adult at risk. It may be necessary for this to be another team to provide independence. Planning and decision making may include the line management for the staff member if that is deemed as appropriate or necessary.

3.0 STEP THREE

CONSULTATION WITH AND DECISIONS BY LINE MANAGER

STAFF MEMBERS RESPONSIBILITIES

- 3.1 Other than in situations of imminent danger, on receiving a referral the staff member must discuss the situation with their Team Manager/Assistant Team Manager or other appropriate/available manager as soon as possible (and always on the same working day). Situations involving physical or sexual harm must be brought to a manager's attention immediately

STAFF MEMBER CONSULTATION WITH TEAM MANAGER/ASSISTANT TEAM MANAGER

All referrals relating to Adult Support and Protection must be brought to the attention of the Team Manager/Assistant Team Manager as soon as possible and always within the working day it is received. All available information should be presented.

RESPONSIBILITIES OF TEAM MANAGER/ASSISTANT TEAM MANAGER

- 3.2 The Team Manager/Assistant Team Manager holds ultimate responsibility to decide what action should be taken and to co-ordinate the response

RESPONSIBILITIES OF THE TEAM MANAGER/ASSISTANT TEAM MANAGER ARE:

- ✓ Protect the adult and any other possible adults potentially at risk.
- ✓ Draw up an Action Plan to organise the response
- ✓ Co-ordinate all decisions about the response
- ✓ Allocate an appropriately trained Council Officer
- ✓ Ensure support for members of staff involved
- ✓ Provide Briefing & Debriefings for any staff involved in use of investigatory powers
- ✓ Ensure all events, decisions and reasons for decisions are recorded accurately and timeously on LAS the same working day (no later than within 24 hours).

- 3.3 For further information and guidance on the Team Manager/Assistant Team Manager responsibilities see Checklist for Team Managers/Assistant Team Managers ([see Appendix 10](#))
- 3.4 Service Managers or the ASP Lead Officer can also be consulted if required. When advice is requested, it is the responsibility of the Service Manager or the ASP Lead Officer to provide such consultation, advice and support as is necessary. The decision as to whether to apply ASP Procedures is a matter of professional judgement based on an analysis of the information available.

TEAM MANAGER/ASSISTANT TEAM MANAGER'S RESPONSE

- 3.5 The Team Manager/Assistant Team Manager will review and discuss the available information with the allocated worker / duty worker. It is the managers responsibility to decide what further action (if any) is required.
- 3.6 All Adult Support and Protection Referrals received must be recorded as such. CBS staff will create a contact record, upload the referral and indicate that the contact relates to adult support and protection concerns.
- 3.7 In some situations, sufficient information may have been obtained at the referral stage, including information from LAS records or the allocated workers knowledge of the adult, to determine that the person referred does not meet the criteria for an adult at risk.
- 3.8 The manager can make the decision at referral stage not to proceed with ASP next steps and use of the ASP module however must record a clear rationale for this decision. Good principles of professional curiosity must be applied, exploring and understanding through inquiry and questioning is good practice to avoid assumptions or taking things at face value
- 3.9 Where a decision is made not to proceed with ASP procedures at referral stage the manager must consider whether the referred adult may be in need of other support/services. The fact the person is not an adult at risk does not absolve the Council from having duties to offer other forms of support if these are needed.
- 3.10 A manager should consider the following options (these are not exhaustive)
- That no further action of any nature is required
 - Schedule for assessment under community care
 - If an open case - continue with casework and review existing care plan.
 - Refer to another appropriate agency.
- 3.11 As detailed, if the manager decides that adult protection procedures are not required, they must record this decision on the contact record. Importantly they must also record the reasons for that decision and any further planned actions e.g. case allocated for community care assessment or review of needs.
- 3.12 The Adult Social Work Service must inform the referrer / agency of the decision(s) taken regarding that referral. This might be provided by telephone or in some circumstances in writing. This is also an opportunity to provide partner agencies with support and guidance on making adult support and protection referrals where this need is identified.
- 3.13 Most referrals will require, as a minimum, that an inquiry without the use of investigatory powers is undertaken before decisions are made regarding further action. Where, after considering the referral information and other available information the manager concludes the adult is or may be an adult at risk and there is a need to intervene further then there must be an inquiry undertaken.

4.0 STEP FOUR

INQUIRY WITHOUT THE USE OF INVESTIGATORY POWERS

- 4.1 If the referral information and any existing knowledge of the adult suggest the person referred is an Adult at Risk then the Council has a legal duty to make inquiries to establish if intervention is required to protect the person's well-being, property, financial affairs or other interests.
- 4.2 Inquiries under Section 4 of the Act will be carried out by Adult Social Work Service who will consult and work in partnership with other agencies and conduct inquiries to establish where there is a need for further investigation and intervention.
- 4.3 An inquiry without the use of investigatory powers does not need to be (but can be) undertaken by a trained and authorised Council Officer. Only when specific actions need to be taken is there a requirement for a council officer; 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.
- 4.4 Where another member of Adult Social Work Service is instructed by a manager to undertake an inquiry they will always be overseen, supervised and supported by a Council Officer. In most cases, this will be the requesting manager. For more guidance in good practice see [Appendix 11 Oversight of Non-Council Officers Undertaking ASP Inquiry Work](#).
- 4.5 Other professionals, such as the police, the Care Inspectorate, third or independent sector care providers or health professionals may be asked to assist by sharing information proportionate and relevant to the harm reported.
- 4.6 In all circumstances such information collating will be important. What one person or agency knows about an adult will often be limited. It is only by the seeking and sharing of wider, relevant information that a bigger, more informed and triangulated picture will be gained. This allows sound decisions to be made about how best to intervene.
- 4.7 Inquiries should commence on the same working day that the referral is received and **must be completed within 5 working days of the referral date**. This includes recording and write up of the inquiry.
- 4.8 Once information has been gathered during the inquiry stage the worker must report all available information relevant to support and protection issues to the Team Manager/Assistant Team Manager. The Team Manager/Assistant Team Manager must decide if the information collated is sufficient to make decisions as to how to best proceed. **Gaps in information or pending information from partners is common and must not delay decision making and progress to the next procedural steps.**

4.9 At this stage the Team Manager/Assistant Team Manager can decide, using their professional judgement and having considered all the information available that the adult is not an adult at risk. They must record this decision, the basis for the decision and any further planned actions. Deciding not to act is still considered as taking a decision and the reason for taking this course of action must be recorded as a matter of good practice.

4.10 A decision that a person does not need an inquiry under the Act does not preclude the person potentially benefiting from support/advice from another source/approach.

4.11 Where a decision is taken that the adult concerned is not an adult at risk of harm and that there is not a need for the ASP procedure to continue the TM/ATM must also consider whether the adult needs any assistance or support under any other legislation or procedures. Examples might be where the person may benefit from referral to another agency for support. Alternatively, the adult may need an assessment of need (or review of need) under Assessment and Care Management Procedures, or where a carers assessment would assist or need action in terms of the Adults with Incapacity procedures.

4.2 ADULT AT RISK PARTICIPATION

4.21 The adult's participation and support for participation should be a focus beginning at these early steps of our procedure and continuing throughout later stages of ASP proceedings. This includes an adult's participation in inquiries, investigative processes, risk assessment, case conferences, protection planning and implementation through core groups.

4.22 The adult's views and wishes are central to adult support and protection, and every effort should be made at each stage of the process to ensure that barriers to the adult's participation are minimised and overcome.

4.23 When considering an intervention under the Act, use of supported decision-making processes and principles may help determine the necessity and type of action to be taken, assisting the individual to participate in such decisions.

4.24 The adult should be provided with assistance or material appropriate to their needs to enable them to understand our processes and to make their views and wishes known. Reasonable adjustments should be made to support the adult's communication needs wherever identified. Please see the [Easy Read and Accessible Materials](#) section of the practitioner pages for tools and resources.

4.25 The offer of a professional interpreter should be made to all of those who experience language barriers. The use of family members or friends as interpreters should be avoided as there is a risk of misinterpretation; concealed or minimised information sharing; and possible exacerbation of risk. Information on how to access [Interpretation and translation support](#) is available on the Intranet.

4.26 The Sensory Services Social Work Team provides several British Sign Language (BSL) interpretation services and should be contacted for support 01324 590875 sensory@falkirk.gov.uk

- 4.27 Section 6 of the Act places a duty on the council, if it considers that it needs to intervene to protect an adult at risk of harm, after making inquiries under Section 4 of the Act, to have “regard to the importance of the provision of appropriate services (including, in particular, independent advocacy services) to the adult concerned”. Independent advocacy aims to ensure that a person’s voice is listened to, and their views taken into account; to support access to information; and to assist people to navigate systems. Referrals to Forth Valley Advocacy can be made [here](#) or by calling the service to discuss on **01324 320 986**
- 4.28 Appropriate Adults provide communication support to vulnerable victims, witnesses, suspects and accused persons, aged 16 and over, during police investigations. The role of the Appropriate Adult is to facilitate communication between a person with mental disorder and the police and, as far as is possible, ensure understanding by the individual. Further information and guidance on when an appropriate adult is necessary is available [here](#)

5.0 STEP FIVE

INTERAGENCY REFERRAL DISCUSSION (IRD) AND PLANNING MEETING

5.1 What one agency knows about a person may be only one part of a wider picture of that adult's life, their strengths and abilities in addition to their difficulties and their potential need for support and protection. In keeping with the principles of the Act, other than in the most urgent situations, relevant people should be contacted so decisions about the best way to proceed can be taken jointly and with the fullest of information available.

5.2 PURPOSE OF AN IRD

5.21 An Interagency Referral Discussion is the sharing of information between professionals/agencies so joint decisions can be made about the best way to proceed with the use of investigatory powers.

THE PURPOSE OF THE IRD/PLANNING MEETING

- ✓ Establish what information agencies have about the people involved and what further information is required.
- ✓ Share all available information to assist joint, informed decision making
- ✓ If a crime has or may have been committed Police Scotland will decide if a criminal investigation is required
- ✓ To consider any wider Public Protection matters
- ✓ To consider and decide which other agencies may assist the council who have the lead role in conducting the investigation.
- ✓ To decide the timescales and the personnel to conduct the investigation
- ✓ To decide who should be interviewed, who will conduct the interview, what type of interview is required e.g. investigative interview technique, when and where this will take place and who will brief/debrief the staff involved
- ✓ To consider whether any urgent action is needed to protect the adult(s) while the investigation takes place.
- ✓ Decided whether a large-scale investigation is needed if more than one adult may be at risk.
- ✓ Consider the adult's level of capacity to make decisions regarding the concerns. Where there is any uncertainty about capacity to follow the HSCP Capacity Assessment Request Pathway (available in s/drive)
- ✓ Where the adult has a Guardian or Power of Attorney to decide what powers/decisions they have and what role they might play in the investigation
- ✓ Consider if the adult will benefit from independent advocacy
- ✓ Consider the possible need to use Appropriate Adult Services
- ✓ Consider the evidence available, and how further evidence will be obtained including whether medical/forensic evidence is available and how further medical/forensic examination should be undertaken.

5.3 RESPONSIBILITIES FOR IRD

- 5.31 A Team Manager or Assistant Team Manager are responsible for initiating, holding, recording and signing off IRD's. Council Officers will assist the manager to prepare and gather information for the IRD.
- 5.32 Team Managers/Assistant Team Managers must ensure that they have sufficient trained managers in their team to resource IRD's. All participating managers must have completed appropriate training and have full access and competence to use the shared electronic system (eIRD).
- 5.33 Adult IRD Guidance is available [here](#) and provides managers with detailed information on good practice in IRD. The following points provide an overview to this standalone IRD guidance which must be reviewed and applied in practice.

5.4 WHEN TO HOLD AN IRD

- 5.41 An IRD may be initiated by any of the statutory agencies in line with the IRD guidance. This is not a single/isolated event but should be the first stage of a series of discussions where information is discussed, and a co-ordinated response agreed by the relevant agencies.
- 5.42 The vast majority of IRD's will be initiated by Adult Social Work Service as the recipient of ASP referrals. Police Scotland or NHS Forth Valley may initiate an IRD when immediate discussion is necessary and the delay through making an ASP referral to the Council would potentially cause detriment to the adult.
- 5.4.3 Not all ASP inquiries led by Adult Social Work Service will require an IRD. Where relevant, Police and Health must always still be contacted as part of an inquiry however it is the responsibility of the Assistant Team Manager/Team Manager to decide whether an IRD is necessary.

IRD DECISION MAKING CONSIDERATIONS

- It is anticipated that a joint investigative approach may be necessary
- The nature and level of risk requires careful tripartite assessment and management
- Partners hold significant information about the adult and alleged perpetrators relevant to the reported harm.
- The impact of the adults' circumstances and conditions on their ability to safeguard requires careful consideration and examination of chronological information held by all partners
- The initial inquiry suggests that a criminal offence may have taken place
- There are escalating concerns for the adult
- It is anticipated that support and protective actions need to be multiagency at an early point to keep the adult safe from harm

- 5.44 Unless the concerns are of a serious and urgent nature, the IRD will normally take place within 3 working days of the referral (and always within 5 working days). It should be undertaken by the Team Manager/Assistant Team Manager. It will take place by TEAMS or by phone.

- 5.45 In complex situations, or where a number of professionals/agencies are involved, it may take place at a Planning Meeting. [See section 5.9 below for guidance on Planning Meetings.](#)
- 5.46 When a concern arises out with normal working hours there may be a discussion between the on-call Detective Sergeant and EDT to make initial plans. Following this the IRD will be held on the first working day of normal working hours.
- ## 5.5 INVOLVEMENT IN THE IRD/PLANNING MEETING
- 5.51 The IRD will usually take place between the Adult Social Work Service and anyone/combination of the following:
- Police Scotland (Usually a Detective Sergeant)
 - A relevant health representative e.g. Nurse, Consultant
 - Care Inspectorate when a registered care provider is implicated/involved
- 5.52 This list is not exhaustive and there is a wide range of partners who may hold important information that will assist decision making. However, much of this information will be gathered by statutory partners prior to the IRD.
- ## 5.6 CO-ORDINATING TRIPARTITE IRD'S
- 5.61 In Forth Valley we aim to hold IRD's involving Social Work, Police and Health (tripartite) for all adults at risk who will benefit. In situations where the adult at risk may have been the victim of an offence then discussion must take place with Police by calling the IRD Desk [0300 424 5830](tel:03004245830) at the earliest opportunity.
- 5.62 Police participation in IRD can be requested through emailing forthvalleyarc@scotland.police.uk and Health IRD participation can be requested through emailing fv.adultprotection@nhs.scot
- 5.63 The Team Manager/Assistant Team Manager will request an IRD and with agreement initiate the electronic form on the shared database.
- 5.64 The Team Manager/Assistant Team Manager will agree a time to hold the discussion with Police, Health and any other necessary partner and send a TEAMS invite.
- 5.65 Should a shared time not be available at a time in keeping with the needs of the adult the Team Manager/Assistant Team Manager will coordinate a series of telephone discussions. The method of the discussion is a matter of professional judgment ensuring that the discussion is held at the right time for the adult at risk of harm. **It must be a series of discussions; email communication must not be used.**
- 5.66 The Police have the lead role for investigating when actual or suspected harm to an adult is thought to constitute a criminal offence. It is not the responsibility of staff from any other agency to investigate if a criminal act has occurred. Following initial inquiry wherever it appears a crime has been committed this matter will be discussed with the Police who will decide if a criminal investigation is required.

- 5.67 Joint investigations will be decided upon at the IRD. **Adult Social Work Service always lead on any ASP investigation and use of investigatory powers by a Council Officer.**
- 5.68 The nature of what needs further investigation will assist partners in deciding on the personnel to be involved alongside a Council Officer. For example, where a medical examination is planned a Council Officer and Nurse may be the best joint approach.
- 5.69 The IRD may also agree several additional multiagency safeguarding actions to be taken in addition to any use of investigatory powers. All agreed actions must be specific. Record who is responsible for the action, what the action is and what the agreed timescale is.

5.7 DECISIONS OF IRD

- 5.71 There are several possible actions that can result from the IRD such as (not exhaustive):
- a) Council Officer Investigation
 - b) Council Officer Investigation jointly with another partner e.g. Police, Health.
 - c) Large Scale Investigation
 - d) Adult Protection Case Conference
 - e) Further non-Adult Protection Action
 - f) No further action/closure.
- 5.72 It is important that agreed actions and decisions and the reasons for these are recorded on **the same day and always within 24 hours.**

5.8 IRD SIGN OFF

- 5.81 It is the responsibility of the Assistant Team Manager/Team Manager to ensure that they return to the electronic record to record updates and outcomes of agreed actions, to sign off the IRD and prompt any updates and sign off from participating partners.
- 5.82 Team Managers must use their ASP Tracking meetings to access the electronic system to review their teams IRDs and agree any necessary actions to allow update and sign off.

5.9 PLANNING MEETING

- 5.91 In situations where the process of sharing of information, risk assessment and joint decision making will be better achieved by professionals meeting in person and/or requires a wider range of participants then an ASP Planning Meeting will be arranged/convened.
- 5.92 When required, the aim must be to hold the planning meeting within the same timescale as the arranging of IRD's (3 working days of the referral and always within 5 working days). However, in some situations the arranging of such meetings may take longer.

- 5.93 In such cases professionals must discuss, agree and record interim safety planning in the usual way using the electronic system.
- 5.94 When these timescales cannot be achieved the Team Manager/Assistant Team Manager must record on LAS the reasons for this.
- 5.95 The Team Manager should chair the planning meeting and is responsible for ensuring the information shared, discussion, decisions and action plan are entered into the electronic system. They must be completed promptly, **the same day and always within 24 hours.**
- 5.95 Planning Meetings might be particularly necessary for complex cases e.g. organised/systemic patterns of harm, when more than one perpetrator is involved or if allegations are in respect of any professional staff member(s) or council employee(s). This list is not exhaustive.
- 5.96 The [Large Scale Investigation Protocol](#) may be relevant however will not cover all planning meeting cases.
- 5.96 In such situations, the ASP Lead Officer and Service Manager must be notified and, in some circumstances, may wish to attend. The Head of Specialist Services may also be notified when appropriate. Completion of a significant occurrence notification must also be considered.

6.0 STEP SIX

INQUIRY WITH THE USE OF INVESTIGATORY POWERS (INVESTIGATION)

6.1 PLANNING THE INVESTIGATION/MANAGER BRIEFING

- 6.12 When a Team Manager/Assistant Team Manager decides that an investigation is needed the Team Manager/Assistant Team Manager overseeing the use of investigatory powers will arrange a briefing meeting with investigating officers. The briefing will be held prior to the deployment of the officers in the investigation.
- 6.13 The briefing will agree roles and actions in relation to the use of investigatory powers. This will include any of the following activities which must be led by an approved Council Officer –
- a visit;
 - an interview with the adult;
 - a medical examination of the adult;
 - the examination of records.
- 6.14 The briefing should consider when and where the use of investigatory powers will take place and what information should be given to the adult or relevant others for the reason, if notice of the visit is given for example.
- 6.15 The briefing must include contingency planning in case the planned approach is not successful or needs to be adapted due to circumstances presented to the Council Officer and others.
- 6.16 The briefing must also include a first point of contact for the Council Officer should they need to call for managerial consultation and support during their intervention.
- 6.17 The briefing must be recorded on LAS in the investigation step '*Plan of Investigation*' and in cases where detailed planning of an investigative interview is necessary using the '*ASP Investigative Interview Manager Briefing and Debriefing*' available in the drop down in '*ASP Additional Forms*'.

6.2 STRUCTURED INVESTIGATIVE INTERVIEW – FIVE PHASED APPROACH

- 6.21 When the plan is to interview the adult and any relevant others the agreed model is the five phased approach.
- Introduction and explanation of adult's legal rights
 - Rapport
 - Free Narrative
 - Questioning
 - Closure

- 6.22 The type of interview required will be decided by the Team Manager/Assistant Team Manager and will include how best to support the adult throughout the process.
- 6.23 Wherever possible the investigating officers should plan the interview. ([see Plan of Investigative Interview of Adult – Appendix 12](#)).
- 6.24 Interviews of adults at risk who have cognitive impairment/mental disorder (and all interviews undertaken by 2 Council Officers) should always aim, where possible, to include using the investigative interview technique and five stage phased approach.
- 6.25 It is recognised that this may not always be possible due to the level of impairment, distress of the adult or the circumstances the Council Officer and others are presented with for example.
- 6.26 The briefing will agree roles and actions in relation to the interview of the adult and interviews with any relevant others.
- 6.27 A summary of the Council Officers main duties and powers when using their investigatory powers are provided in the Council’s prompt cards known as the “Council Officer pink cards”.([see Appendix 13](#)) Council Officers will receive a copy of these laminated cards upon completion or refresh of their Council Officer training. The refresh of Council Officer training must be completed every 3 years.
- 6.28 At this stage, the support to the adult is critical so that the adult can participate as fully as possible in the next stages of the ASP process.
- 6.29 The information collated in the inquiry without the use of investigatory powers stage can help plan the best way forward to assist the adult to participate as fully as possible and as fully as they wish in the visits, interviews or medical examinations that may be necessary as part of the investigation. There is also the option of the Police using video recorded interviews if this is assessed as benefitting the investigation.
- 6.210 The investigation stage should be completed within 10 (ten) working days of the referral. Whenever this timescale cannot be achieved the Team Manager/Assistant Team Manager must decide that it is not possible and record this decision and the reasons for their decision on LAS.

6.3 APPROPRIATE ADULT

- 6.31 If the Police are involved in the interview of an adult (whether as a potential victim of harm, a witness or a suspect) if that adult may be considered to have a mental disorder the adult may need to be interviewed in the presence of an Appropriate Adult. Please see [Appropriate Adult: guidance for local authorities](#) for awareness of criteria for requesting an appropriate adult. The decision to request Appropriate Adult support lies with the police.
- 6.32 Local authorities must ensure that people are available to provide such support when the police request it, no staff member can act in this role without being formally recognised as an approved Appropriate Adult.

6.4 CAPACITY FOR RELEVANT DECISION MAKING

- 6.41 Before undertaking any investigation, a determination of the adult's capacity to consent to the planned activities, wherever possible, should be reached by the appropriate professional(s) and recorded. Inquiries should consider the adult's capacity to understand the risks they are exposed to and the possible consequences of not engaging with inquiries or protective intervention.
- 6.42 The possible scenarios that may emerge include the following:
- the adult has capacity and agrees to be interviewed.
 - the adult has capacity and declines to be interviewed.
 - the adult lacks capacity and is unable to consent to being interviewed.
 - the adult has capacity but is thought to have been influenced by some other person to refuse consent.
- 6.43 If the adult is thought to have been influenced to refuse consent, consideration should be given to whether there has been undue pressure applied. It may then be necessary to consider applying for a Protection Order in order to, for example, interview the adult in private. ([see step 9 Protection Orders](#))
- 6.44 A lack of capacity to consent to being interviewed may not prevent the adult participating in the use of investigatory powers.
- 6.45 In the circumstance that the adult lacks capacity to consent or lacks capacity to refuse to consent to interview and/or interventions the first check is that of establishing evidence of authority of an attorney or guardian who can. An attorney or guardian should be able to produce a copy of their certificate which includes the powers they have been granted. These documents must be uploaded to LAS. They often include a power similar to the one below:
- ✓ To consent to an application for an order or to specify conduct in terms of part one of the Adult Support and Protection (Scotland) Act 2007, if satisfied the intervention by the Council Officer or relevant person will provide benefit to the Adult, in circumstances where it is considered the Adult may be at risk of harm, or otherwise to oppose such an application if the guardian considers it appropriate;
- 6.46 Where this can't be evidenced, or it is unknown the Council Officer should contact the Office of the Public Guardian to ascertain whether the person has granted a welfare power of attorney or if there is a welfare guardian with the relevant powers to consent (or refuse to consent) on their behalf. This can be done by completing [Local Authority Request Form](#) which will prompt a check of the public register which holds details of registrations from 1 April 2001.
- 6.47 The ultimate decision of whether an adult lacks capacity rests only with a court of law. However, a judgement may need to be reached as to whether it is anticipated the adult at risk has or does not have capacity in relation to the issues of their support and protection and the concern that is being investigated.

- 6.48 Decisions may need to be based on such a judgement in the short term, applying the principles of the act, until any formal action or application in terms of the Adults with Incapacity (Scotland) Act 2000 can be considered or implemented.
- 6.49 Council Officers should apply the Decision Specific Capacity Screening Tool contained within the Partnership 'Assessing Capacity Pathway Pack'. This is available in the social work shared drive with a dedicated folder named 'Assessing Capacity Pathway'.
- 6.410 Capacity and consent is a complex area particularly where undue pressure is present, or an adult is resistant to services perhaps due to experiences of previous trauma and associated coping strategies.
- 6.411 Even if there are no concerns in relation to capacity or undue pressure, the adult's refusal to co-operate in an adult protection inquiry should not automatically signal the end of any inquiry, assessment or intervention. Whilst the adult has a right not to participate in any such process, the council and its partners should still work together to offer any advice, assistance and support to help manage any identified risk of harm.

6.5 VISITS

- 6.51 Under the Act, as part of an investigation a council officer may visit any premises (and adjacent places used by the adult) in:
- The adult's own home.
 - The home of informal carers
 - A registered setting such as a care home, day service or hospital.
 - Homeless accommodation or other temporary housing

A Council Officer can also visit premises where a person is residing temporarily or spends part of their time including:

- A day centre
 - Respite facility
 - A hospital or medical facility
 - Commercial premises
 - A place of education, employment or other activity.
- 6.52 This list is not exhaustive, and a visit can be made to the adult at risk wherever they may be living/attending.
- 6.53 In addition, the Council Officer is permitted access to all parts of the place visited that may have a bearing on the investigation. This can include areas where the adult at risk sleeps, facilities for hygiene/washing, meal preparation areas and general living space. It also includes adjacent places such as garages, sheds and outbuildings. Visits should only normally be undertaken at "reasonable times".
- 6.54 The Council Officer must show their ID badge and state the purpose of the visit. There is an obligation to be clear with the adult that the purpose of the visit is to determine if they are at risk and if they are in need of support and/or protection.

- 6.55 The Council Officer may be accompanied by another person e.g. Police Officer, Health Professional etc. The decision as to who will accompany the Council Officer will be dependent on the unique circumstances of the case. In most cases such decisions will best be reached after consultation with manager or after an IRD or planning meeting.
- 6.56 Where a visit is made to assist an investigation and access to the place being visited is not possible then all options must be considered. It might be appropriate to make a visit at a later time or to attempt to arrange such a visit to coincide with others (home carers or family visiting). Alternatively, to involve another person (a family member/friend, GP or other trusted person) that might improve the prospect of access being gained.
- 6.57 Where access cannot be gained and the lack of access is (or may be) having a detrimental effect upon the investigation there is the power, under section 37 of the Act for the Council to apply to the Sheriff Court for a Warrant for Entry.
- 6.58 Additionally, there is the power, in terms of the Act to apply for an Assessment Order where it is believed that, not only access to the premises is necessary but where it is essential that the adult at risk is taken to an alternative place for the purposes to offer them a medical examination and/or an interview in private.
- 6.59 In such situations the adult's views must be discussed with the Team Manager/Assistant Team Manager. The aim is always to find the appropriate balance, based on the unique circumstances of each situation, between the adults' own wishes and the duty of the Council to make appropriate and necessary use of their investigatory powers.
- 6.60 **INTERVIEWS**
- 6.61 The Act permits a council officer, and any person accompanying them, to interview **in private**, any adult found in a place being visited. The aim is to give people an opportunity and encouragement to speak whilst always respecting their right not to speak if they choose not to.
- 6.62 It is therefore critical, in keeping with the Council Officers responsibilities under Act that the Adult(s) be told of their right not to answer any questions either before the interview starts or at the very outset of the interview. The adult has the right to refuse to participate in the interview at all. Also, they can choose to participate in answering some questions but not others.
- 6.63 The process of advising the adult of this right must be a "more proactive" process than simply advising them of this right. The aim is to ensure, as far is reasonably possible, the adult understands their rights whilst always respecting any decision by the adult that they do not wish to be interviewed (or wish to speak about only certain matters). Good social work skills are important to promote the adult's participation.
- 6.64 The adult must be assisted to participate as fully as possible during any interviews.

Where an adult can participate in some way or make some contribution the interview can proceed.

- 6.65 Where an adult does not fully comprehend the full purpose or possible consequences of the interview the interview can proceed. Staff must however be aware of the need to be particularly careful about protecting the adults' rights and wherever possible include the use of a support person and/or independent advocate to offer support to the adult concerned.
- 6.66 The adult at risk should **never** be interviewed in the presence of the (or any) alleged perpetrator(s) but may have a support person present if they choose.

GUIDANCE FOR INTERVIEWERS

- ✓ Explain the agency for which they work and their designation.
- ✓ Describe the reason for the interview being arranged.
- ✓ Seek the adult's consent to being interviewed and explain their right not to speak
- ✓ Explain, as far as reasonably possible, what might follow from an interview.
- ✓ Conduct the interview in a supportive manner and at the adult's pace.
- ✓ Establish events/issues in as much detail as possible.
- ✓ Consider all forms of potential risk, including other possible adults/children
- ✓ Establish the adult's views/feelings about events.
- ✓ In ending the interview, summarise all that has been discussed and explain what action the interviewers intend to take next.
- ✓ Discuss what support and protection measures the Council Officer now assesses are necessary.
- ✓ Seek the adult's agreement to such measures
- ✓ Record the full details of the interview on LAS, including uploading any handwritten notes soon after completion of the interview. (See below recording of interviews)

6.7 RECORDING OF INTERVIEWS

- 6.71 Taking an accurate record of the interview is an important responsibility of the interviewers. The Council Officer leading the investigation is ultimately responsible for ensuring the interview is conducted in a way that both allows the interviewee to speak openly about any issues and allows the second interviewer to record the key facts of the interview.
- 6.72 The level of recording needed will be dependent on the issues involved and must also be discussed and agreed as part of the briefing session/interview planning. As outlined the 'Plan of Investigative Interview' Tool ([see Appendix 12](#)) should be used for this purpose. The Record of Investigative Interview form ([see Appendix 14](#)) must be used for recording the interview. This is also available in the 'ASP Additional Forms' section on LAS. There is not a need for the interview to be recorded in verbatim format. The standard expected is that the following minimum requirements will be recorded in all interviews:

MINIMUM REQUIREMENTS FOR RECORDING OF INTERVIEW

- a) Date of the interview, the time it begins and location it is held
- b) Names and titles/positions of all people attending (including any person accompanying the Council Officer in any capacity).
- c) That identification of each person has been shown and been explained
- d) The purpose of the interview is to determine if the adult is at risk of harm and needs help with support and protection
- e) The interviewee has a right not to speak or they can choose to answer all questions, or they can choose to answer some but not other questions
- f) Explanation of the need to take written notes during the interview
- g) Any issues that could, in any way relate to whether the person is an adult at risk or whether they have been (or might be) subject to harm will be recorded in full.
- h) Wherever possible actual statements made by the adult that may be evidentially important to helping them receiving support and protection will be recorded in full
- i) That a summary of the interview was provided at the end
- j) That discussion took place on what actions the Council Officer(s) will or might take following the interview (including consultation with others)
- k) That discussion (and assessment) of ongoing risk took place

6.73 The information gained from interviewing the adult (along with all other information collated at this stage) must be presented by the Council Officer(s) to the Team Manager/Assistant Team Manager managing the investigation and uploaded to LAS.

6.8 DEBRIEFING

6.8.1 Immediately following the investigative interview (and potentially with interviews with relevant others) the interviewing officers will report back to the Team Manager/Assistant Team Manager for a debriefing.

6.8.2 It is the responsibility of the investigating workers to report all relevant information gained from the interview(s) and to make a professional recommendation(s) as to the risks to the adult and what immediate steps may be needed to protect that person.

6.8.3 It is the responsibility of the Team Manager/Assistant Team Manager managing the investigation based on all available information and on the professional recommendations of the workers to make decisions about how best to protect the Adult.

6.8.4 When the adult is regarded as at ongoing risk of harm the Team Manager/Assistant Team Manager will have the responsibility of deciding if an Adult Support and Protection Case Conference is needed.

- 6.8.5 The Team Manager/Assistant Team Manager must also consider the impact of this work upon the staff member(s) and provide appropriate support.
- 6.8.6 The Council Officer will record all information relating to the investigation on the LAS investigation fields the same working day or no later than within 24 hours.
- 6.8.7 The Team Manager/Assistant Team Manager will review this record and will add their decisions and recommended action and basis for this. The Initial Investigation should normally be completed within 5 working days of the referral. Reason for any delay must be recorded.
- 6.8.8 The adult at risk should be seen and, where appropriate, interviewed within 3 working days of the referral. In situations of immediate or significant harm or sexual or physical harm, the adult at risk **must** be seen the same working day.
- 6.8.9 Where initial investigation of a significant incident reveals a risk of ongoing harm the Council Officer will complete the Adult Protection Risk Assessment (AP2) (*see Appendix 11*). This must be completed for all situations progressing to Case Conference. This form is embedded into the LAS ASP module in the 'ASP Additional Forms' drop down.

6.9 MEDICAL EXAMINATION

As part of an investigation it might be beneficial to the adult to have a medical examination. The Act defines such an examination as either a physical, psychiatric or psychological examination.

- 6.9.1 Where necessary the Act allows the Council Officer to be accompanied by a health professional (doctor, midwife or nurse) to conduct a medical examination. However, a medical examination can also take place at a later stage to the visit. The medical may take place where the adult is or might be arranged to take place elsewhere (e.g. health centre, hospital or another appropriate place).
- 6.9.2 Medical examinations to provide evidence of harm to inform a criminal investigation (and potentially a criminal prosecution) should only be carried out under Police direction and will normally involve a Police Surgeon.
- 6.9.3 In keeping with the principles of the Act in terms of the adult's participation, when a medical exam is indicated as beneficial it is important that the Council Officer discusses this fully with the adult, explains the reasoning and seeks to involve them in any decisions.
- 6.9.4 The Council Officer must explain to the person carrying out any medical examination the reason this has been requested and what the examination should consist of so that it might assist/inform the investigation being carried out.
- 6.9.5 The Council Officer, prior to any medical examination taking place, has a duty to inform the adult of their right to refuse a medical examination. While it may assist the inquiries being made it is an adult's right to refuse such a medical.
- 6.9.6 When an adult cannot make an informed decision about the reasons or possible consequences of a medical examination the Council Officer should determine if the adult has a Welfare Guardian or

Welfare Power of Attorney in terms of the Adults with Incapacity legislation. The Office of the Public Guardian can be contacted to determine this.

- 6.9.7 Where an appropriate Guardian or Power of Attorney is in place the Council Officer must determine if the Guardian or Attorney has the power to make decisions on the adults behalf related to medical examinations. In any cases of complexity or uncertainty or where the concern is that the Guardian or Attorney might be a possible source of harm the Council Officer must always discuss such issues with the person managing the investigation and take their advice.
- 6.9.8 Where there is not a Guardian or Power of Attorney the powers and duties detailed in the 2000 Act and/or 2003 Act might apply. In particular section 47 of the 2000 Act provides guidance on arranging medical treatment/examination when the adult concerned is not able to make an informed decision about medical treatment/examination themselves.
- 6.9.9 In any (or all) such situations the Council Officer (or health professional themselves) can consider the need to seek specific advice about this and consult with the relevant legal service.

6.10 EXAMINATION OF RECORDS

- 6.10.1 A Council Officer may require any person to provide health, financial or other records relating to the adult at risk for inspection at the time of the visit or requested in writing at other times.
- 6.10.2 When requesting such information, the Council Officer should discuss the need for such information with their Team Manager/Assistant Team Manager.
- 6.10.3 When making a request for information the Council Officer must explicitly state (and when the request is in writing, explicitly state this in writing) that they are conducting an investigation under the terms of the Adult Support and Protection (Scotland) Act 2007.
- 6.10.4 Also that the Council Officer can inspect the records or arrange for any other appropriate person to inspect records e.g. someone with financial and/or legal expertise.
- 6.10.5 In the case of health records only a registered health professional e.g. a doctor, nurse, midwife can be given the authority to inspect records or copies of records.
- 6.10.6 The 2007 Act Section 49 provides that it is an offence for a person to fail to comply with a requirement to provide information under Section 10, unless that person has a reasonable excuse for failing to do so.
- 6.10.7 Councils should make reasonable efforts to resolve disagreements when record holders refuse to disclose them. Informal or independent conciliation might be considered, depending on the circumstances and reasons given for refusal.
- 6.10.8 If a disagreement about accessing information arises the Council Officer must raise the issues immediately with their Team Manager/Assistant Team Manager. In such situations there will be a

need to consider carefully what steps are necessary. To assist this process the Team Manager/Assistant Team Manager may take advice from the relevant Locality Manager and/or the ASP Lead Officer. In many such situations it will be necessary to seek advice from Falkirk Councils Legal Service.

6.10.9 Wherever possible it will be the desire of those involved to resolve disagreements about information to be shared in a constructive way. However given the importance placed on information sharing in adult protection work, and that the 2007 Act makes it is a criminal offence to, without reasonable excuse, not share appropriate information it should be borne in mind, and people advised that this is the case, of the legal duty to share information and the potential penalties, as described in the Act of failing to do so without a reasonable excuse.

6.10.10 When making requests for information from financial institutions Council Officer must use the nationally agreed materials for such requests. For details of this national system and materials **see Appendix 12**.

6.11 INTERVENTIONS TO PROTECT USING LEGISLATION

At each stage of the investigative process the need for formal intervention under all relevant and appropriate legislation to protect the adult at risk must be considered.

6.11.1 When required, the Adult Protection Case Conference will allow for a fully informed, multiagency discussion around legal intervention and the need for more immediate action to protect must be considered in consultation with the Team Manager/Assistant Team Manager.

6.11.2 Where the adult lacks capacity and is unable to give consent consideration must be given to the use of provisions under Adults with Incapacity (Scotland) Act 2000 and Mental Health (Care and Treatment) (Scotland) Act 2003.

6.11.3 All legal duties and powers must be considered. Decisions will depend entirely on the circumstances of each individual and their unique situation.

7.0 STEP SEVEN

CASE CONFERENCE

7.1 ONGOING RISK OF HARM

- 7.12 For some adults the process of investigation will find that they are at continuing risk of harm and will need on-going multiagency support and protection. In such situations it will be necessary for an Adult Support and Protection Case Conference to be held.
- 7.13 An Adult Support and Protection Case Conference is a multi-agency forum, which facilitates further assessment of risks and strengths of the adult. It makes decisions about how to support and protect an adult deemed to be at risk in circumstances where harm has occurred or is suspected.
- 7.14 Where possible, the participation of the adult at risk of harm in their case conference is of the utmost importance. Please review [Appendix 16 Good Practice for Effective Participation by the Adult in Adult Support and Protection Case Conferences](#).
- 7.15 Therefore, on completion of an investigation the Team Manager/Assistant Team Manager will consider whether a case conference is required and if so, ensure that this takes place within the agreed timescale i.e. within 30 working days of the referral.
- 7.16 When it is not possible for this timescale of 30 working days to be met the responsible Team Manager/Assistant Team Manager must record the reasons why this has not or cannot be met.
- 7.17 Where a case conference is deemed unnecessary, the Team Manager/Assistant Team Manager must ensure that the full details of the investigation are recorded on LAS and that they have also recorded their decisions and the basis for these.

WHERE A CASE CONFERENCE IS HELD ITS PURPOSE IS TO:

- ✓ Exchange information to build up an extensive understanding of the issues.
- ✓ Assess the adult's situation and the degree of ongoing risk.
- ✓ Determine the adult's views in relation to their need for protection.
- ✓ Determine the views of the adult's representative, advocate or solicitor.
- ✓ Make decisions about how best to remove or minimise risk.
- ✓ Ensure the principles of any proposed legislation are adhered to
- ✓ Consider if the criteria that must be applied is met
- ✓ Agree a Core Group of Professionals
- ✓ Formulate a Protection Plan

This list is not exhaustive and is provided as guidance only to key issues.

7.2 CONVENING OF CASE CONFERENCE

- 7.21 It is the responsibility of the Corporate Minute Taking Team to make the practical arrangements in setting up a Case Conference. It is the responsibility of the Council Officer and Team Manager/Assistant Team Manager to make professional decisions relating to the setting up and attendance at the Conference.
- 7.22 The Council Officer will provide a list of invitees with contact details and a proposed date and time for the conference to the Corporate Minute Taking Team using the form – Tracer for Invitations to Initial Adult Support and Protection Case Conference.
- 7.23 This form is available for completion in ASP Documents on LAS and will be reassigned to the Corporate Minute Takers for them to pick up their tasks. The allocated minute takers responsibilities include checking their own availability (for taking the minutes), send invitations, receiving and distributing reports and distributing minutes. Full details of ASP tasks are available in the ASP Workflow available in the help tab on LAS.
- 7.24 The Council Officer will be responsible for ensuring the availability of the Chairperson and confirming a suitable venue is available. The Corporate Minute Taker will also attend the Conference to prepare the minute, produce a draft minute for the Chair and, once the minute is finalised, send this to all appropriate people.
- 7.25 All venues that are suitable for the adult at risk should be considered. This could be online; at a social work office or other venue the adult is familiar with and comfortable in.
- 7.26 If an application for any legal order/action might be considered (e.g. a Protection Order) it will be appropriate to invite a Council Solicitor to attend.
- 7.27 The Chair of the Conference will, in most circumstances, be the Team Manager/Assistant Team Manager for the area/service responsible for the adult.
- 7.28 If the Team Manager/Assistant Team Manager decides it is more appropriate for the Chair to be a person independent of the area/inquiry they can ask a colleague Team manager/Assistant Team Manager to Chair a Conference.

7.3 PREPARATION FOR CASE CONFERENCE

- 7.31 The Council Officer must prepare two reports for the Initial Case Conference – the background report entitled ASP Case Conference Report which is embedded in the case conference step on LAS and the specific Risk Assessment report entitled Risk Assessment Form – AP2 – Adult Support and Protection which is available in ASP documents on LAS.
- 7.32 The AP2 risk assessment will include a collated chronology, outline and analysis of the ongoing risk of harm. This will be live document which may be updated to reflect information arising from the case conference. It will be an important tool for any core group established. It is also an important document to provide evidence should for example any legal proceedings be necessary.

7.33 Both necessary reports are crucial to multiagency understanding of and collective ownership of necessary support and protection actions. The Council Officer is responsible for ensuring they provide good information for case conference. It must be a clear and concise summary and analysis of the risk and recommendations for support and protection of the adult. Copy and paste of write ups from activity already undertaken must be avoided.

7.34 The case conference report and the AP2 must be passed to the Conference Chair no later than three working days in advance of the case conference. Team Managers/Assistant Team Managers must ensure staff members have sufficient time to meet these timescales.

7.4 ADULT AT RISK PARTICIPATION

7.41 The Code of Practice states such meetings must be as “inclusive” as possible. The adult should, where possible, be invited to contribute as fully as possible.

7.42 Prior to the Conference it is essential that the Council Officer speaks to the adult about the meeting, who might attend, the likely structure of the meeting, topics to be discussed, the reports completed and (if possible) some of the possible decisions that might be made.

7.43 Every effort should be made to help the individual to play as active a part in proceedings as possible, including use of interpreters and other aids to communication. Advocacy must always be offered to provide support for the adult's attendance or to represent their views and wishes if they are unable to attend or share these themselves at the meeting.

7.44 In some situations, the adult should be helped to prepare their own written information for the Conference or to use any other ways of contributing the adult thinks appropriate.

7.45 The involvement of all relevant professionals in the Conference is important. Whenever a professional cannot attend, they should be requested to submit a report on their involvement and opinions or to arrange for a substitute (their manager or a colleague) to attend on their behalf. The template for partner reports for adult protection case conference is available [here](#).

7.46 The aim is to be open and inclusive. However, there can be situations where either information presented to the Conference cannot be shared with everyone present or where a part of the meeting needs to take place without the inclusion of specific people.

7.47 When such situations occur the chair must make decisions in advance of whether certain information is to be “restricted” and to whom. The reasons for this must be recorded in the minute of the meeting.

7.48 Similarly, if Case Conference needs to discuss matters out with the presence of the Adult (and their representative) then the Chair can make this decision. Any such time should be kept to a minimum and there should be an explanation given to the Adult and the reasons for this decision must be recorded in the minutes.

7.5 PROCESS OF CASE CONFERENCE

- 7.51 A Case Conference is held to share information about ongoing risk and make decisions about how to support and protect an adult deemed to be at risk.
- 7.52 The case conference should be person centred and the content of the meeting should include: - Introductions, Fact Gathering, Legislation, Discussion about Risk, Analysis and Assessment, Decision Making and, when risk is ongoing, the setting of an Adult Protection Plan. To assist the chair with facilitating a discussion through each of these important areas a Case Conference Chair Prompt is available at [Appendix 17](#).
- 7.53 Any agency, adult or their carers have the [right of access to complaints procedures](#) should they disagree with any decision or outcome arising from the case conference process. Similarly, all parties retain the right to request a review of their care provision at any time. Where there is disagreement, this must be recorded in the relevant minute.
- 7.54 The Chair of the Case Conference holds ultimate, executive responsibility for decision making within the Adult Protection Case Conference and subsequent Review Case Conferences.
- 7.55 If there is any serious dissent/dispute or complaint this must be reported to the Head of Specialist Services. They will be responsible for reviewing all matters and will do so in consultation with all other senior officers who have a contribution to make.

7.6 DECISIONS OF A CASE CONFERENCE

- 7.61 When a Conference decides there is on-going risk to the adult there will be a need to agree any immediate protective actions that are necessary. Also, where that risk will continue the Conference will agree the need for a Protection Plan to coordinate the on-going support and protection.
- 7.62 The 'Actions/Decisions' agreed at the Case Conference should be approved by the chair and circulated by the Corporate Minute Taker to all participants (including those unable to attend) within 24 hours. ([see Appendix 18](#)). The full Minutes, with a copy of the Adult Protection Plan (where one has been produced) will be distributed within 3 working days.
- 7.63 The Council Officer (in consultation with the Team Manager/Assistant Team Manager) will ensure that a Protection Plan is produced no later than 3 working days after the date of the Case Conference. The Council Officer is responsible for ensuring the agreed Protection Plan is ready for circulation.

8.0 STEP EIGHT

PROTECTION PLAN AND SUPPORT

8.1 COMPLETION OF A PROTECTION PLAN

- 8.12 The actions agreed at the case conference will form the basis of any Protection Plan. A copy of the protection plan will be circulated with the case conference or review case conference minutes.
- 8.13 In some circumstances, where the need for protection is urgent, a Protection Plan will be put in place prior to a case conference and will then be discussed and amended accordingly. Council Officers are encouraged to utilise the protection plan at earlier states where necessary, it is available in 'ASP documents'.
- 8.14 The Protection Plan form can be used as a stand-alone document and updated as part of an ASP monitoring and review process.
- 8.15 There are two types/levels of protection plan which can be used, standard and comprehensive:

8.2 STANDARD PROTECTION PLAN

- 8.21 This protection plan can be used when the initial response to the ASP referral or the case conference identifies the need for increased support and some protective measures but the risks are not complex and do not appear to involve risk of serious harm.
- 8.22 The format includes the area of risk and outcomes sought, the measures to support and protect and who is responsible for carrying out those measures within which timescale.
- 8.23 Implementing and monitoring the support and protection plan is the responsibility of all involved professionals and in particular the identified core group. The Council Officer has lead responsibility for the protection plan.

8.3 COMPREHENSIVE PROTECTION PLAN

- 8.31 This protection plan has been designed for use when allegations of harm/exploitation have been made and a Case Conference has agreed that there is a risk of serious harm; where the risks are complex: or when levels of risk cannot be managed within a normal Care Plan.
- 8.32 The format for the Comprehensive Protection Plan assumes that, reflecting good practice, there will be a Lead Council Officer to co-ordinate protection work and that, in most cases, there will also be a core group of workers from different agencies and services as appropriate. Core group meetings take place between case conference and review case conference. For guidance on Core Groups refer to Step 10 of this procedure.

8.33 Both protection plan templates are available in 'ASP Documents'.

8.4 CONTENT OF A PROTECTION PLAN

8.41 The content of a Protection Plan might include:

- Community or other support requirements always an issue
- Decision to apply for Protection Order under 2007 Act
- Contingency/relapse plan
- Key worker/care manager responsibilities
- Partner agency interventions and responsibilities
- Management plan for the alleged perpetrator/s of harm.

MINIMUM DETAILS OF ADULT PROTECTION PLAN:

- ✓ Identification the Core Group and Lead Council Officer.
- ✓ Identification of lead professional from each agency involved.
- ✓ The regularity of contact between each lead professional and the adult at risk.
- ✓ Each professional's role and what services they will provide.
- ✓ Details of all support services available for the adult at risk
- ✓ The need for professionals to share information and review risk on a regular basis.
- ✓ The specific actions or services to be provided to protect the adult at risk.
- ✓ The inclusion of any legislation being applied for or granted e.g. Banning Order, welfare guardianship etc.
- ✓ The summary details of any legislation in place e.g. the conditions of a Banning Order.
- ✓ That all future concerns about ongoing risk or protection issues will be shared.
- ✓ A review date for the Protection Plan must be set
- ✓ Communication between all professionals will be regular and effective

8.5 WHEN A PROTECTION PLAN IS IN PLACE

8.51 Adults subject to a protection plan will be visited by the Council Officer from Adult Social Work Service a minimum of once every 2 weeks

8.52 Having agreed a protection plan all professionals involved must maintain regular contact with the Adult at Risk, must fulfil their responsibilities as identified in the plan and must continue to be an active part in the ongoing assessment of risk.

8.53 Where a protection plan is in place, case recording on LAS must be kept up to date by the Council Officer. 'ASP case notes' must be used to record protection plan implementation. A copy of the protection plan must be available on LAS, so this is easily accessible to the team when necessary if, for example, the Council Officer is not available.

- 8.54 The Council Officer and Core Group will discuss and agree the need for any significant changes or amendments to the protection plan applying the principles of the act, having regard to benefit to the adult and the least restrictive interventions regarding the freedom of the adult. For example, progress or new skills developed by the adult may prompt an adjustment to the actions.
- 8.55 A good quality protection plan should be multiagency with evidence of a variety of professionals contributing to the support and protection of the adult. It should also demonstrate evidence of the adult's participation in the plan, perhaps with some actions for them. In addition, there should be clear evidence of how professionals are going to intervene affectively with the alleged perpetrator/s of harm where applicable. They might also be part of the plan where they are being supported to make changes to their behaviour applying Safe and Together principles.
- 8.56 The decision to end a protection plan must be taken at a review case conference where all parties are satisfied there is evidence to demonstrate the risk of harm has been removed or reduced to an acceptable level and there is no further need for the formal protection plan.
- 8.57 In some specific situations, e.g. the death of the harmer, a decision to end the protection plan can be taken by the Team Manager/Assistant Team Manager without need for a review Case Conference. In these circumstances this decision should be communicated to all relevant agencies. Such a decision must be recorded on LAS by the Team Manager/Assistant Team Manager and the reasons why this decision was taken out with the Case Conference process.

8.6 SUPPORT FOR THE ADULT AT RISK

- 8.61 The adult should be made fully aware of the content of the Protection Plan, the role each professional/agency will play and what supports are available. It will be very important to continue to reassure them of everyone's best efforts to protect them and to support them in managing feelings related to their experiences.
- 8.62 An immediate factor may be supporting the adult with their feelings about the incident/s, the consequences of any investigation, attendance at or the outcome of a case conference and providing help to understand what might happen next. Reactions may be obvious and immediate or can be delayed or indicated in indirect ways. For many adults there will be need for support in the short and the long term.

8.63 In keeping with the Acts principles of participation and support it is important the adult has availability of advice and information from others, including from independent sources.

**POSSIBLE NEED FOR SPECIALIST
SUPPORTS:**

The need for specialist support should always be considered and discussed with the adult. A range of supports may need to be considered including:

- ✓ Advocacy (independent) services
- ✓ Solicitor or other legal advice
- ✓ Psychiatric, psychological or other counselling service
- ✓ Communication support service or systems
- ✓ [Victim Support Scotland](#)
- ✓ C.E.A. (Committed to Ending Abuse)
- ✓ Rape Crisis
- ✓ [Self-Harm Network](#)
- ✓ Other self-help groups

All information must be given in a format that is accessible to the adult.

8.64 Any ongoing Police investigation or action, and any Court or other legal processes e.g. Protection Order, may need to be explained and support offered. Consideration should also be given to the special measures in the Vulnerable Witnesses (Scotland) Act 2004 for any Court Proceedings. If appropriate, support with an application for Criminal Injuries Compensation should be offered or arranged by the Council Officer through liaison with Victim Support Scotland.

8.7 WHEN THE ADULT DOES NOT WISH TO ACCEPT SUPPORT

8.71 Just as an adult at risk might choose not to be involved in the inquiry an adult might choose not to be actively part of a Protection Plan, and/or their participation may vary over time.

8.72 Where the Adult does not wish to accept support and protective measures or to be part of a protection plan then their wishes should be recorded. The Team Manager/Assistant Team Manager should also record, on LAS, that this is the case and any recommendations or decisions. Issues of capacity to participate should be considered in this context.

8.73 Taking a trauma informed approach to adult support and protection practice enables all those who perform any of the functions under the Act to better understand the range of adaptations and survival strategies that people may make to cope with the impacts of trauma. Practitioners should be alert to the need to view behaviours that compromise health, wellbeing and safety as adaptations that may have played a useful role in the individual's life in helping them to survive, and cope with, their experiences of trauma.

- 8.74 Examples of such adaptations can include avoidance of places and people, including professional relationships and services.
- 8.75 Trauma informed practice is not intended to treat trauma-related issues. It seeks to reduce the barriers to service access for individuals affected by trauma, and to promote understanding of the impact of trauma on individuals. Key principles of a trauma informed approach are:
- safety
 - trustworthiness
 - choice
 - collaboration
 - empowerment
- 8.76 In some situations, it may be appropriate to continue to monitor the risks to the adult under ASP procedures and through a protection plan even if they do not accept the support and protection provided/offered. The benefits of continuing with a multi-agency approach based on shared decision making and responsibility in terms of continuing ASP concerns should not be underestimated. In time the Adult may become more willing to accept support and protection. It is recognised that any protective action may be limited by the adult's decision not to participate. However, there may be opportunities to limit or mitigate the harm. Any action taken must take cognisance of the adult's human rights and be proportionate to the risk of harm.

9.0 STEP NINE

PROTECTION ORDERS AND WARRANT FOR ENTRY

9.1 OVERVIEW OF ORDERS

- 9.12 The 2007 Acts allows Council Officers to apply to the Sheriff Court for a range of orders to either assist their investigation or to provide on-going support and protection.
- 9.13 To assist an investigation section 37 of the 2007 Act provides a **Warrant for Entry**. To provide immediate or ongoing support and protection there are three Orders provided in the 2007 Act:
- **Assessment Order** (section 11 to 13),
 - **Removal Order** (sections 14 – 18),
 - **Banning Order** (section 19 to 34).
- 9.14 In considering any of these Orders there is always a need to apply the principles of the 2007 Act. These include that action intended must be benefit the adult and must, of the range of options likely to fulfil the object of the intervention, be the least restrictive to the adult's freedom.
- 9.15 In the case of Assessment, Removal and Banning Order there must be evidence that the adult at risk is believed to be at risk of **serious** harm and that protecting the adult cannot be achieved by other means. There is no definition of "serious" harm, and each situation will be different for each individual person. Serious harm does not have to be imminent, for example.
- 9.16 The Sheriff cannot grant an order if he knows that the adult has refused consent. If it has not been possible to obtain the adult's consent or otherwise, then the Sheriff may still grant an order (e.g. when applying for an assessment order where it has not been possible to gain access to the adult). Also, if the Council is able to provide evidence that the adult has been unduly pressurised not to consent to a protection order the Sheriff may grant an order.
- 9.17 Out with urgent situations, Protection Order(s) will only be applied for after multi agency discussion. Often such discussions will take place at a formal meeting, such as an IRD, Adult Protection Case Conference or Review Case Conference. It is therefore important for the Chair of these meetings, whenever consideration of any of the Protection Orders seems possible, ensures an appropriate person within the Council's Legal Service is invited to attend. Where a Council Solicitor is not able to attend (or where consideration of a Protection Order arises from an informal meeting) the Chair must always ensure they refer the matter to the Legal Service and take up legal advice.
- 9.18 The Act allows for such orders to be applied for at any time in the adult protection process. There may be urgent situations where such orders are regarded as beneficial to the adult and where multi agency discussion is not possible.

- 9.19 However, as the actions following the granting of an Order are likely to require the support of Police Scotland their active involvement in considering the need for such Orders is essential and must be included in any considerations at an early stage. This may be done through the usual IRD process or through attendance at the case conference or Core Group where a protection order is being discussed.
- 9.20 Other than situations where the Protection Order is being sought on an emergency basis, the application will be made in writing by a council solicitor, including evidence provided by the council officer.

9.2 WARRANTS FOR ENTRY

- 9.21 A Warrant for Entry is not a form of ongoing protection itself. But it is to assist the investigation to determine if an adult is an adult at risk in need of support and protection.
- 9.22 In most situations when conducting a visit to a person believed to be an adult at risk entry will be possible. However, if entry is refused by any person or in other ways prevented or not possible the law allows for a Council Officer, when it is essential and will be beneficial to the adult at risk to apply to a Sheriff for a warrant of entry to a particular place. In urgent situations an application can be made to a Justice of the Peace.
- 9.23 A warrant for entry, if granted, will allow the Council Officer to enter the premises and allow a constable who accompanies the council officer to do anything, including using reasonable force where necessary, which the constable considers to be reasonably required in order to fulfil the object of the visit.
- 9.24 In respect of applications for a Warrant for Entry the threshold is that such action is necessary to achieve the object of the visit, is beneficial to the adult and the adult is believed to be an adult at risk of harm.
- 9.25 In most circumstances, where a warrant for entry is necessary, an application will be made to the Sheriff Court. Such an application must be made by the Council's legal service with the Council Officer attending. If granted the warrant expires 72 hours after it has been granted.
- 9.26 Section 40 (of the 2007 Act) allows for an application, in situations of urgency, to be made to a Justice of the Peace. In such exceptional circumstances a Justice of the Peace will only grant the warrant, if s/he is satisfied that it is not practicable to apply to the Sheriff and that the adult is likely to be harmed if there is any delay in granting the warrant. It should be noted that a warrant granted by the Justice of the Peace will expire 12 hours after it has been granted.
- 9.27 If such an application, directly to a Justice of the Peace, is required the national application form for such applications must be completed and submitted ([see Appendix 19](#)). The Council Officer must also take [Appendix 20](#) which is the draft template for the Justice of the Peace to use if they grant the warrant.

9.28 Any decisions to seek a warrant must only be taken following discussion with a Team Manager. The Team Manager may seek advice from the ASP Lead Officer and/or legal services. In most situations such a decision will be made in consultation with all relevant others. However, it is only the Council who have the legal right to make such an application.

9.29 The ASP Lead Officer must be notified of any Warrant for Entry of Protection Order granted by email.

9.3 ASSESSMENT ORDER

9.31 This order allows the adult to be taken to a place where they can be interviewed by a Council Officer (and/others assisting the Officer) and examined by a specified health professional. The purpose of the assessment is to allow the Council Officer to establish whether an adult is an adult at risk and is in need of support and protection.

9.32 Only the Council can apply for an Assessment Order. Such an application can only be made to the Sheriff Court. The application must be made by the council's legal department. Evidence must be made on oath with both the council's solicitor and the authorised Council Officer appearing before the sheriff to present evidence.

9.33 Any decisions to seek an Assessment Order must only be taken following discussion with a Team Manager. The Team Manager may seek advice from the ASP Lead Officer, from a Service Manager or other senior manager and/or with Falkirk Council's legal services.

9.34 In most circumstances any Protection Order (including an Assessment Order) will only be applied for after multi agency discussions. Often such discussions will take place at a formal meeting, such as an IRD, Adult Protection Case Conference or Review Case Conference.

9.35 When the need for an Assessment Order is being considered the issue of whether this will benefit the adult and is the least restrictive option to provide support and protection must be carefully and fully considered by the Team Manager/Assistant Team Manager and Council Officer.

9.36 In all but the most exceptional of situations the Team Manager/Assistant Team Manager and Council Officer must seek and consider the advice of Falkirk Councils Legal Service when considering the need for an Assessment Order. Advice on whether an order may or may not be granted is relevant however more weight must be given to the Council Officer risk assessment which analyses serious risk of harm and where applicable undue pressure. It is for the Council to instruct applications on this basis.

9.37 An important element of such legal advice must also be the issue of consent, the adult's capacity and the legal concept of "undue pressure" (as defined by Section 35 of the 2007 Act). These must be considered in advance of any application for an Assessment Order.

- 9.38 Legal advice must also be sought on the duty to notify the adult at risk of the application and the process of the application being submitted to the Court. Similarly, if the Order is granted in Court, legal advice must be taken on the ongoing responsibilities of implementing the Order.
- 9.39 If a decision is taken that such an Order is beneficial then the professionals taking that decision must decide what the content of the “assessment” will be. In making the application, the Council will need to satisfy the Court that the order will be beneficial and that the personnel needed to conduct the assessment are available and willing should the Order be granted. For reasons of privacy Council Officers may arrange to take the adult to a suitable place in order to carry out an assessment. The Council must be explicit about where the adult is to be taken for the purposes of the assessment and provide written evidence that it is suitable and available. An assessment order expires after a maximum of 7 days of it being granted.

9.4 REMOVAL ORDER

- 9.41 This order allows the Council Officer to remove the adult to a specified place within 72 hours of the order being granted and for the Council to take such reasonable steps as it thinks fit for the purpose of protecting the moved person from harm. Only the Council can apply for a Removal Order. Application for a Removal Order (made to a Sheriff Court) must be made by the Council's legal department. Evidence must be made on oath with both the council's solicitor and the Council Officer appearing before the Sheriff to present evidence.
- 9.42 Any decision to seek a Removal Order must only be taken following discussion with a Team Manager. The Team Manager may seek advice from the ASP Lead Officer, from a Service Manager or other senior manager and/or with Falkirk Council's legal services.
- 9.43 In most circumstances any Protection Order (including Removal Order) will only be applied for after multi agency discussions. Often such discussions will take place at a formal meeting, such as an IRD, Adult Protection Case Conference or Review Case Conference.
- 9.44 When the need for a Removal Order is being considered the issue of whether this will benefit the adult and is the least restrictive option to provide support and protection must be carefully and fully considered by the Team Manager/Assistant Team Manager and Council Officer.
- 9.45 In all but the most exceptional of situations the Team Manager/Assistant Team Manager and Council Officer must seek and consider the advice of Falkirk Councils Legal Service when considering the need for a Removal Order. Advice on whether an order may or may not be granted is relevant however more weight must be given to the Council Officer risk assessment which analyses serious risk of harm and where applicable undue pressure. It is for the Council to instruct applications on this basis.

- 9.46 An important element of such legal advice must also be the issue of consent, the adult's capacity and the legal concept of "undue pressure" (as defined by Section 35 of the 2007 Act). These must be considered in advance of any application for a Removal Order.
- 9.47 Legal advice must also be sought on the duty to notify the adult at risk of the application and the process of the application being submitted to the Court. Legal advice must also be sought on the duty to notify the adult at risk of the application and the process of the application being submitted to the Court. Similarly, if the Order is granted in Court, legal advice must be taken on the ongoing responsibilities of implementing the Order.
- 9.48 If a decision is taken that such a Removal Order is necessary, then the professionals taking that decision must decide where the adult will be taken to if the Order is granted. There is a requirement to provide evidence to the Court that a suitable place is available. Wherever possible written confirmation that such a place is available will be a necessary part of the Council's application.
- 9.49 A Removal Order granted by the Sheriff Court expires a maximum of 7 days after it is granted or when the Order states that it expires.

9.5 URGENT REMOVAL ORDER APPLICATIONS

- 9.50 Section 40 (of the 2007 Act) allows for an application, in situations of urgency, to be made to a Justice of the Peace for the granting of a Removal Order. In such exceptional circumstances a Justice of the Peace will only grant such an Order if s/he is satisfied that it is not practicable to apply to the Sheriff and that the adult is likely to be seriously harmed if there is any delay in granting the Removal Order.
- 9.51 When a Removal Order is approved by a Justice of the Peace the adult at risk must be removed within 12 hours of the granting of the Order and the Order expires after 24 hours.
- 9.52 If an application for Removal Order is made directly to a Justice of the Peace, the national application form for such applications must be completed and submitted – [see Appendix 21](#) The Council Officer must also take [Appendix 22](#) which is the draft template for the Justice of the Peace to use if they grant the removal order.
- 9.53 It is the Council's responsibility to protect a removed person's property if the adult is not able to do it and if there are no other arrangements in place to prevent loss or damage to their property. [Section 18](#) sets out the authority for a Council Officer to enter a place in order to move the adult's property to another place or to otherwise safeguard their property. The Council may not recover costs of doing this and must return the person's property to them as soon as possible after the order ceases to have effect.

9.6 BANNING ORDER

- 9.61 Council officers and other interested parties, including the adult at risk can apply for a Banning Order. The order bans the subject of the order from being in the specified area or place. It also authorises the ejection of the banned person from

any specified place and authorises a person to do anything else which the sheriff thinks necessary for the proper enforcement of the order.

9.62 In the event a Banning Order is being considered the Team Manager/Assistant Team Manager and Council Officer must consider the principles of the 2007 Act (including that such an Order will benefit the adult at risk and be the least restrictive option to provide such benefit).

9.63 They must also consider the criteria for a Banning Order. This includes that:

- the adult at risk is being (or likely to be) seriously harmed,
- that banning another person is a better option than moving the adult at risk
- the adult at risk (and the person to be banned) entitlement to occupy the place concerned.

Such matters may be complex, and the Team Manager/Assistant Team Manager and Council Officer must take legal advice in relation to these criteria prior to any application for a Banning Order.

9.64 Any decision to seek a Banning Order must only be taken following discussion with a Team Manager. The Team Manager may seek advice from the ASP Lead Officer, from a Service Manager or other senior manager and/or with Falkirk Council's legal services.

9.65 In most circumstances any Protection Order (including Banning Order) will only be applied for after multi agency discussions. Often such discussions will take place at a formal meeting, such as an IRD, Adult Protection Case Conference or Review Case Conference.

9.66 When the need for a Banning Order is being considered the issue of whether this will benefit the adult and is the least restrictive option to provide support and protection must be carefully and fully considered by the Team Manager/Assistant Team Manager and Council Officer.

9.67 In all but the most exceptional of situations the Team Manager/Assistant Team Manager and Council Officer must seek and consider the advice of Falkirk Councils Legal Service when considering the need for a Banning Order. Advice on whether an order may or may not be granted is relevant however more weight must be given to the Council Officer risk assessment which analyses serious risk of harm and where applicable undue pressure. It is for the Council to instruct applications on this basis.

9.68 An important element of such legal advice must also be the issue of consent, the adult's capacity and the legal concept of "undue pressure" (as defined by Section 35 of the 2007 Act). These must be considered in advance of any application for a Banning Order.

9.69 Legal advice must also be sought on the need to notify the adult at risk of the application and the process of the application being submitted to the Court. Legal advice must also be sought on the need to notify the person who will be

banned if the Order is granted. If the Order is granted in Court, legal advice must be taken on the ongoing responsibilities of implementing the Order. In respect of Banning Orders this will include the rights of appeal the adult at risk and the subject of the Order has and also their rights of review and amendment.

9.7 BANNING ORDERS WHERE THE COUNCIL IS NOT THE APPLICANT

9.70 In most situations a decision that a Banning Order is needed/beneficial will be made in consultation with all relevant others. While it is anticipated the Council will, for most such orders, be the applicant the law allows for the adult at risk being the applicant (or someone acting on their behalf) and for the applicant to be someone who occupies the place where the Banning Order will be the focus.

9.71 If it is not the Council who is intending to apply for a Banning Order the same principle of, wherever possible, such matters being discussed at multi agency meeting(s) should be applied to. Also, the need for legal advice to the Team Manager/Assistant Team Manager and Council Officer continues to be an essential part of the process. Advice should also be given to the person applying that independent legal advice will be of help to them.

9.72 In the event a person is made the subject of a Banning Order the Sheriff can direct another person to protect the moveable property of the person being banned. In the event the Sheriff directs the Council to protect such property the Team Manager/Assistant Team Manager and Council Officer must take legal advice on how they might protect such property.

9.8 EXPIRY AND RENEWAL OF BANNING ORDERS

9.81 A Banning Order will expire on any specified expiry date, or if it is recalled or no more than six months from the date it was granted.

9.82 Where appropriate, an application for a further Banning Order can be made. Case Conference Chairs must factor in renewal period into their planning and Review Case Conference Schedule.

9.9 POWER OF ARREST AND URGENT CASES

9.91 Banning Orders can have powers of arrest attached to them. These are important to consider and request as they can act to prevent further harm from a perpetrator of harm who chooses to continue to attend the places/s they are banned from. Knowledge of a power of arrest can also provide extra reassurance and security to an adult at risk of serious harm.

9.92 In situations of urgency the council may ask the sheriff to grant a temporary banning order pending a decision on the Banning Order. This temporary order expires when it is recalled or until a decision is made about the full banning order.

10.0 STEP TEN

MONITORING AND REVIEW

10.1 MONITORING OF THE PROTECTION PLAN

- 10.11 There is a crucial need to monitor the safety of an adult at risk on a regular basis and to ensure there are regular, effective reviews of the Protection Plan.

KEY ISSUES TO EFFECTIVE MONITORING

The Council Officer and the Team Manager/Assistant Team Manager will ensure:

- ✓ Regular face to face contact with the adult a minimum of every two weeks.
- ✓ Communication with the adult to review their need for support and protection.
- ✓ Frequent liaison with all other lead professionals for other agencies
- ✓ Joint review of the adult's safety.
- ✓ The implementation and monitoring of the Protection Plan.
- ✓ Ongoing identification of and analysis of risk with Team Manager/Assistant Team Manager in professional supervision.
- ✓ Ongoing recording of the review process and ongoing assessment of risk.

10.2 CORE GROUPS

- 10.21 Whenever a Protection Plan is in place several professionals will be involved with an adult at risk and each will have a part to play with the Protection Plan implementation, oversight and review. Therefore, it is expected that to coordinate ongoing support and protection and to ensure regular review of risk that the setting up of a Core group will take place.

10.3 PURPOSE OF A CORE GROUP

- 10.31 Core Group Meetings do not replace Review Adult Protection Case Conferences but will be in addition to Review Case Conferences and will be held a minimum of monthly. These meetings are important, and all members of the agreed multiagency group must attend/arrange representation. This enables a multiagency approach to be implemented throughout the whole process, including regular liaison between more formal review meetings.

- 10.32 The Core Group will be identified at the initial case conference. The Council Officer will chair the core group meetings. Other core group members should include those professionals offering direct work with the adult at risk. The adult and their supporters should also be encouraged to take part in these meetings. [Appendix 16](#) should be utilised.

- 10.33 The Council Officer must ensure that discussion is recorded using the Adult Support and Protection Core Group template available in 'ASP documents' on LAS. It must be circulated to core group members with a copy to the Team Manager/Assistant Team Manager.

- 10.35 It is expected that contact between the Council Officer and the adult at risk will be regular and will be recorded timeously. If there is a break in contact, then the reasons for this will be discussed in advance between the staff member and the Team Manager/Assistant Team Manager.
- 10.36 If the Council Officer is absent from work for any significant period (more than 2 weeks) the Team Manager/Assistant Team Manager must ensure cover is arranged for effective monitoring and those staff fully briefed in the Protection Plan and their role in continuing to support and review the adult's safety.
- 10.37 In situations when substantial alterations are required to the protection plan (and/or the risk to the adult changes significantly) this must be brought to the attention of the Team Manager/Assistant Team Manager. That manager must then decide if changes can be approved by their own judgement or where an earlier Review Case Conference must be convened to consider the changes and level of on-going risk

10.4 SUPERVISION

- 10.41 Professional supervision sessions are very important in the ongoing review and management of ASP cases and of Protection Plans. There are often new developments or information to consider and discuss. Ongoing decisions need to be made about the safety of an adult at risk considering new information or developments.
- 10.42 The Team Manager/Assistant Team Manager must ensure they have full and up to date information about any new developments or information and this can be best achieved through ongoing informal consultation and formal supervision sessions.
- 10.43 The Team Manager will facilitate an ASP Overview/Tracking meeting at a minimum of fortnightly to ensure there is effective oversight of all ASP activity.
- 10.44 The Team Manager/Assistant Team Manager should ensure that any Actions agreed in supervision and/or the ASP Overview/Tracking Meeting are recorded on LAS using the contact type 'Adult Protection Supervision Summary' or 'Adult Protection Team Manager Record'.

IMPORTANCE OF SUPERVISION IN ONGOING RISK MANAGEMENT

Team Managers must ensure all cases with current ASP activity including those with a Protection Plan in place are discussed with the Council Officer (or other staff) at every supervision session. Any significant changes or new or increasing concerns should be discussed in full. If the situation changes in a significant way it may be appropriate for a Review Case Conference to be convened.

The Service Manager, in supervision sessions with Team Managers, must ensure all cases with an active Protection Plan are discussed. The Service Manager must be satisfied with all decisions about ongoing safety and the service provided to the adult at risk.

All supervision notes (between Team Manager/Assistant Team Manager and Council Officer and also between Service Manager and Team Manager) must include a written record of the discussion about all ASP cases and the Actions agreed also copied onto the LAS records for the adult.

10.5 REVIEW CASE CONFERENCES

- 10.51 Adult Protection Review Case Conferences must be held at agreed time scales: within 3 months of the initial case conference and thereafter within 6 monthly periods. These will be convened and chaired by the Team Manager. Any significant changes in the Adult at Risks situation must be brought to the attention of the Team Manager at the earliest opportunity in order that a Review Case Conference can be convened quickly if required.
- 10.52 Review Case Conferences are responsible for reviewing the progress of the Protection Plan and the level of continued risk to the adult. The Review Case Conference will consider the effectiveness of the Protection Plan and whether any changes are needed.
- 10.53 Reports, including those from the Council Officer (case conference report, updated AP2 and protection plan), will be sent to the Case Conference Chair at least 5 days prior to the date of the review case conference.
- 10.54 If the conclusion of a Review Case Conference is that the adult is no longer at any ongoing significant risk or that the risks are sufficiently reduced, it may be decided that there is no further need for the continuance of the Protection Plan. In this event ongoing support or services to the adult may continue through care management processes. Any future concerns should be recorded and reported using and an adult support and protection referral form (AP1).

10.6 CLOSURE OF CASES – ASP CASE CLOSURES

- 10.61 The decision to close a case can only be made by a Team Manager and this must be recorded on LAS by them with the reason for the decision.
- 10.62 Team Managers should ensure that no case involving allegations of harm is considered for closure unless
- ✓ The adult has been spoken to alone
 - ✓ Living conditions have been seen
 - ✓ Views of relevant professional have been sought
 - ✓ Evidence that person's welfare will be safeguarded and promoted, and they are aware of how to re-refer
 - ✓ Care plan is up to date and complete.
 - ✓ All Adult Protection LAS recording is up to date and complete including contact records, chronology/significant events and a closure summary.
- 10.63 No case where an Adult Protection Plan is in place should be closed without at least ONE of the following safeguards having occurred:
- ✓ A Review Case Conference attended by key representatives from relevant agencies having been convened and a decision made that the adult at risk is no longer in need of formal protection measures.
 - ✓ A formal decision by the Team Manager where a Review Case Conference is agreed not to be required recording reasons for not holding such a Case Conference e.g. if the harmer dies
 - ✓ The completion of actions agreed under the Protection Plan and an updated risk assessment.

ADULT/CHILD PROTECTION GUIDANCE FOR REFERRALS OF YOUNG PEOPLE AGED 16 & 17 YEARS

Background

All staff should pay particular attention to the needs and risks experienced by young people transitioning into adulthood, who are more vulnerable to harm than others.

As other legislation and provisions exist which include children up to 18 years (and sometimes, in the case of care experience up to age 26), support under these other provisions may be more appropriate for some young people. For care experienced young people, all staff should be informed by completing the 'Council Family and Friends' (corporate parenting) [OLLE module](#). The responsibilities of the council and other agencies for persons aged 16 -18 years will extend beyond adult protection legislation. Situations may arise, particularly for 16- and 17-year-olds where there are legitimate interests and engagement from services for both children and adults. Where a young person under 18 is at risk of harm, [The National Guidance for Child Protection in Scotland \(2021\)](#) is relevant for reference, alongside local procedures for [Child Protection](#).

Young people may already be receiving services from a range of children's services, or as looked after children. This is not to say that they will or will not become adults at risk in terms of the Act simply because they have reached a particular age. Each case will need to be considered individually.

Public Protection across the lifespan

Practitioners must be alert and curious to all forms of harm when dealing with individual cases. An adult may be deemed at risk of harm and may also be placing their children at risk of harm. Children may live in homes where there is an adult at risk of harm. When making inquiries because of either adult or child protection referrals, consideration should also be given to the potential vulnerability of other members of the household. Practitioners should be informed and working towards and maintaining a skilled level of competence in their non-core area of practice. Child and Adult Protection training opportunities are available on [CPD Manager](#).

Some young people in this age group can be subject to responses through either Adult Protection or Child Protection procedures. The purpose of this guidance is to support operational managers and staff when considering which response is the most appropriate. It is for use by staff in both the Adult and Children's sections of Social Work Services.

Falkirk's Child and Adult Protection Committee's will support and provide opportunities for joint communities of practice for both sectors of the workforce to support this necessary joint working.

The next section offers definitions as set out in child and adult protection legislation and our agreed local process. More information is also available in the [Transition Planning Guidance for Staff working with Young People 16 - 18 years in areas of Adult and Child Protection Practice](#)

Another useful tool for considering the best approach and legislation use linked to the individual needs of the young person and the harm that has been reported is the [Iriss Understanding age in Child Protection guidance and Adult Support and Protection legislation paper](#).

The appendix which is a 'Guidance and Legislation Table' is particularly useful.

Process

Irrespective of which part of the Social Work Services receives the referral, consideration must be given to the most appropriate response based on the young persons need. All decisions about how to respond should be taken by the receiving Team Manager in discussion with his/her counterpart in the other part of the Service, regardless of whether the case is allocated or a new case e.g. the Children Services Team Manager should discuss the referral with the relevant Adult Services Team Manager.

The discussion should take place immediately on receipt of the referral and normally this would be before the Interagency Referral Discussion (IRD) if proceeding to one. The Team Managers should decide in every case which team will take forward further inquiry and use of investigatory powers.

The Team Managers should continue to work closely together following the inquiry, as some young people in transition will require ongoing involvement and /or services and support from both Children and Adult Services. The need for further/joint involvement can be determined at the debriefing stages of an interview with the young person.

Managing Disagreements

In the event of no agreement being reached between Team Managers, the Service Managers for both teams should be contacted for a decision to be made. There must be no delay to the necessary support and protection of vulnerable young people.

Types of Harm and Descriptions

Type of Harm	Description
Physical harm	Slapping, pushing, hitting, kicking Misuse of medication Pinching, biting, shaking Forcible feeding Improper use of medication Restraining or holding an individual back – locking in a room, tying to a bed or chair Inappropriate moving and rough handling Inappropriate touching Being threatened with a weapon
Sexual harm	Inappropriate sexual contact, touching, kissing Sexual assault. rape, non-consensual contact, sexualised conversations/comments Indecent exposure Being made to listen to, or watch, pornography without consent Voyeurism Sexual extortion
Psychological and emotional harm	Threats, manipulation, inappropriate treatment Humiliation, overt control and dominance Isolation and abandonment Bullying and intimidation by word or act Access to personal being denied Misuse of power or influence Threats of harm or abandonment Putting down, ignoring someone Controlling behaviour Taking away privacy Constant criticism
Verbal harm	Inappropriate use of language, disrespect, name calling, shouting, sarcasm, inappropriate use of humour, using language to confuse or exclude
Institutional harm	Removal of individuality within an institution by strict inflexible regimes and routines, lack of accommodation to individual choice, lifestyle etc. Services not providing the care that they are commissioned to, poor care.
Financial/Material Harm	Taking an adult's money or possession without their knowledge or agreement (theft). Using an adult's money for the harmers own benefit e.g. to pay for a mobile phone contract or ordering goods from the internet or a catalogue Pressuring or 'grooming' someone into changing their will. Coercing or persuading the adult to lend money which is never repaid. Using the adult's details to obtain credit cards.

Type of harm	Description
Discriminatory harm	<p>Racist, homophobic, ageist, sexist behaviours, harassment and any other discriminatory acts, e.g. transphobia</p> <p>Preventing someone from accessing appropriate sexual support/education</p> <p>Denying someone the right to exercise their religion or belief</p> <p>Forcing an individual to participate in a religious or belief practice</p> <p>Denying someone access to culturally appropriate meals</p> <p>Inappropriate 'nicknames'</p>
Neglect and acts of omission	<p>Inadequate heating or nutrition, isolation and abandonment, withholding key essentials, denying access to social or educational services</p> <p>Leaving the person alone and at risk</p> <p>Failure to give privacy and dignity</p> <p>Failure to take an adult at risk to medical appointments or to correctly administer medicines, this includes under or over medicating, inadequate wound care or inappropriate pressure area care.</p> <p>Neglect of environment, not re-setting a night alarm or buzzer</p>
Self-harm	<p>Refusal to eat or drink</p> <p>Harmful drug or alcohol use</p> <p>Cutting, burning, scalding or hitting parts of own body</p> <p>Intended and dangerous risk taking</p> <p>Banging head or other parts of the body</p> <p>Swallowing harmful substances</p> <p>Overdosing</p> <p>For more detailed information visit Self-harm Network</p>
Self-Neglect	<p>Failure to attend to basic needs including eating and drinking- not enough food, poor diet, eating food which is well past it's 'use by' date and mouldy food, Failure to attend personal care including poor dental hygiene, nail care, skin care and malodour, lack of adequate clothing, heating, unsanitary living environment.</p>

The following table provides some potential signs of physical and behavioural indicators which may be signs of harm. The lists are a guide and are not exhaustive or definitive. [This list has been combined from various sources and specialists in the field and may indicate that harm has occurred or may be occurring] You should not use this list as a checklist – the harm you suspect or witness, may not be here!

Type of harm	Description
Physical harm	<ul style="list-style-type: none"> • Cuts/injuries which seem to be unexplained and are repeating frequently • Weight loss due to malnutrition [especially if the individual is fed by others] • Physical marks such as slaps, finger or pressure marks, kick marks, pinching, bite marks • A history of unexplained injuries caused by falls or accidents • Bruising on parts of the body which are well-protected, not normally prone to injury and possibly evidence of repeated striking • Broken bones • Bed sores and body ulcers • Fatigue and drowsiness • Excessive sleep and lethargy • Injuries caused by protective responses – to arms, hands etc • An injury for which the explanation seems inconsistent or denial of injuries • Fear of parents/carers being approached for an explanation • Aggressive behaviour or severe temper outburst • Carers not readily seeking help for injuries • Flinching when approached or touched • Reluctance to get changed, or covering up [e.g. wearing long sleeves in hot weather] • Depression • Withdrawn behaviour • Running away from home • Distrust of adults, particularly those with whom a close relationship would normally be expected • An adult at risk claims they have been hurt by another or have had lots of unexplained accidents • The adult is prevented or restrained, e.g. kept in own room, limited to certain areas etc.
Verbal harm	<ul style="list-style-type: none"> • Withdrawal from group interaction, introversion and self-isolation • Feelings of submissiveness and sense of fear around certain individuals • Changes in behaviour resulting in aggressive verbal responses • Inappropriate use of language

Type of harm	Description
Sexual harm	<ul style="list-style-type: none"> • Changes in behaviour, weeping, anger, violent reactions, withdrawal and self-isolation • Self-harming behaviour • Physical damage, torn rectal/vaginal tissue, anal pain • Signs of 'grooming' • Bleeding • Inappropriate or unusual personal attachments • Unexplained pregnancy • Pain, irritation or bruising in intimate areas • Evidence of inappropriate restraint • Over sexualised behaviour, language and expression • Changes to posture, stiffness and difficulties in sitting • Withdrawal of contraception or initiation of same • Changes in routines, fear of dark and new places • Suspicion of strangers and groups of people • STDs • Vaginal discharge or infection • Stained personal garments and bedding • Stomach pains • Self-harm or mutation, sometimes leading to suicide attempts • Bedwetting • Fear of being left with specific person or group of people • Having nightmares • Saying they have secrets they cannot tell anyone about • Eating problems such as overeating or anorexia
Psychological harm	<ul style="list-style-type: none"> • Self-isolation • Changes in sleep patterns – either excessive or sleeplessness • Deterioration in physical presentation – unshaven, untidy, unkempt, unwashed etc • Changes in psychological health, increase in phobias, paranoia • Confusion, nervousness, excessive pattern of manners, agitated behaviours • Sudden speech disorders • Neurotic behaviour, e.g. hair twisting, rocking • Fear of making mistakes • Self-harm • Fear of family/carer being approached regarding their behaviour

Type of harm	Description
Financial harm	<ul style="list-style-type: none"> • Loss of financial ability • Loss of material property – property or items in home goes missing or unexplained reasons • Pressure to sign power of attorney or wills or actual changes to wills and deeds • Visitors who only come when benefits are cashed • Individuals who ‘help’ adult by withdrawing funds • Lack of congruity between living conditions and assets • Removal of access to benefits by family members • Unexplained alterations to accounts • Unexplained debt or inability to pay bills • Unplanned and unanticipated sale of property and possessions • Confused or irregular signature on credit cards or cheques • Fraud and scams
Institutional harm	<ul style="list-style-type: none"> • Rigid and inflexible routines • Individuals indicating a lack of choice • Changes in behaviour, lack of involvement and interest in normal activities • Self-isolation, passivity and withdrawal • Inadequate staffing • Users of service restricted to own rooms • Lack of attention to complex needs • Lack of understanding of individual communication needs • Fear of another person • Jokes at the expense of the user of service
Discriminatory harm	<ul style="list-style-type: none"> • Loss of self-esteem which is unexpected • Bullying incidents on basis of an individual’s race, age, gender etc • Offensive remarks or harassment based on the adult’s age, gender, disability, race, colour, cultural background, sexual or religious orientation • Changes to the adults’ mental state and behaviour [e.g. fearful, anxious, withdrawn, angry, frustrated] • Providing unacceptable food/diet • Failure to provide for cultural needs • Isolation [e.g. due to barriers to communication] • ‘Hate crime’ • Not allowing for individual choice or difference • Social isolation and exclusion • The adult is refused access to service or is excluded inappropriately

Type of harm	Description
Neglect and Self Neglect	<ul style="list-style-type: none"> • Constant hunger, sometimes stealing food from others • Presenting as dirty, unkempt or 'smelly' • Lack of food • Loss of weight or being constantly underweight • Inappropriate dress for the conditions or time of day • Complaining of being tired all the time • Not requesting medical assistance and/or failing to attend appointments • Medication is withheld • Body sores • Denying access to personal aids, e.g. glasses, stick etc • Having few friends • Mentioning their being left alone or unsupervised • Rushing a person with eating or personal care tasks • Inadequate heating, lighting • Unsafe living conditions • Dirty living conditions

Grooming

Grooming is when an individual perpetrator tries to 'set up' and 'prepare' another person to be the victim of harm, often sexual abuse. It can be perpetrated by someone who is a family member, friend or acquaintance of an individual as well as someone who is a stranger

A grooming process can last for months or even years. It can be very subtle – those who are being groomed often do not realise that they are being manipulated, nor do their relatives or carers.

A perpetrator of sexual abuse may use many techniques to 'groom' and prepare an adult for abuse, such as:

- Giving inappropriate level of attention to the adult
- Telling the adult that he/she is 'special'
- Giving the adult 'special' treatment, favours and privileges
- Offering, promising and/or giving gifts
- Offering to help family/carers to gain access to the adult
- Manipulating the adult through threats or coercion
- Openly or 'accidentally' exposing the adult to nudity/sexual material
- Sexualising physical contact
- Having inappropriate boundaries [e.g. sharing 'problems']

Criminal Exploitation

When an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive the child or vulnerable adult into criminal activity, for the financial or other advantage of the exploiter.

A full list of indicators is available in the Criminal Exploitation Practitioner Guidance [here](#)

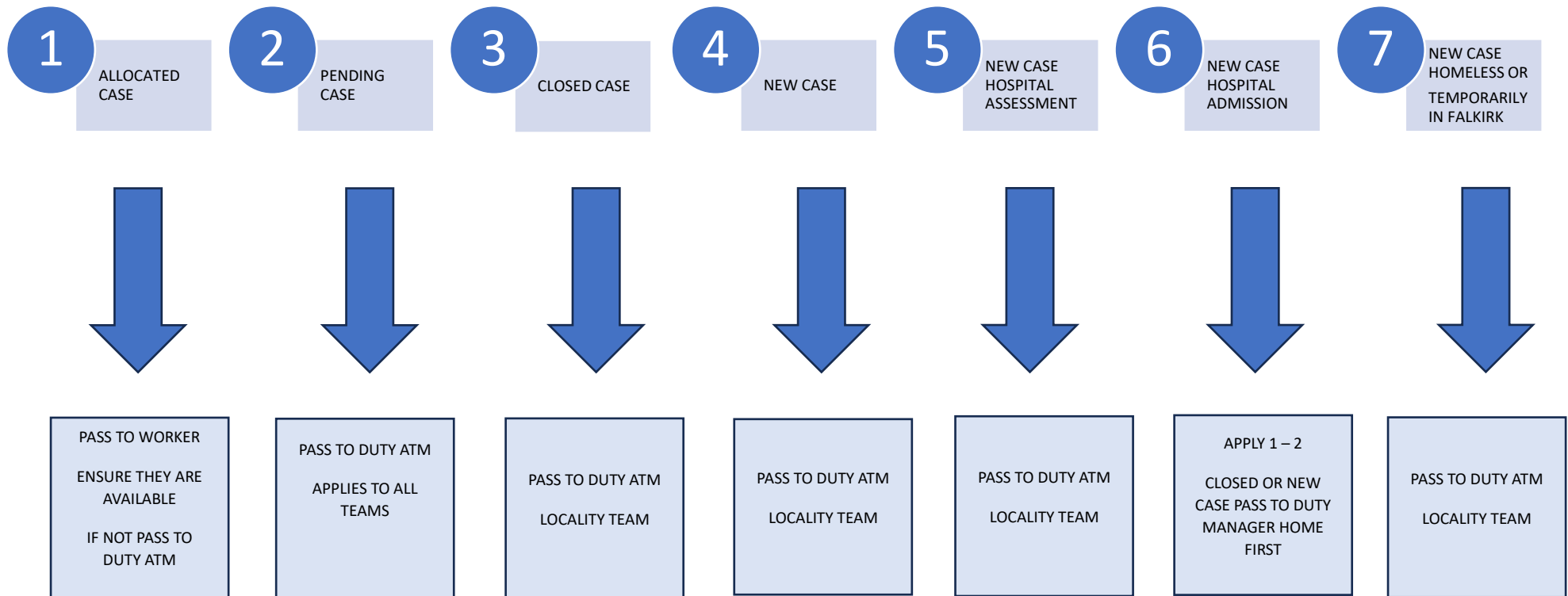
COUNCIL OFFICER AUTHORISATION (ADULT SUPPORT and PROTECTION)

To be completed by the Team Manager and returned to the ASP Lead Officer

1.	Name:	
2.	Employee Number:	
3.	Date of Birth:	
4.	Team:	
5.	Post:	
6.	Qualification Year/Date:	
7.	Start date with Falkirk Council:	
8.	Minimum of 12 months post qualifying experience of identifying, assessing and managing adults at risk?	
9.	How many months/years' experience of above (<i>and details</i>):	
10.	<u>Training Completed:</u>	
	State Council:	Falkirk Council
	Council Officer Training:	
	Investigating interview training:	
	Other relevant training: (<i>please specify training and dates</i>)	
11.	Application Completed by: Team Manager Name and Date:	
	Council Officer status recommended by: ASP Lead Officer Name and Date:	
	Council Officer status approved by: Head of Service Name and Date:	

ASP Referral Pathways for Customer and Business Support

CUSTOMER AND BUSINESS SUPPORT ASP REFERRAL PATHWAYS (CALLS AND WRITTEN REFERRALS)



Appendix 5

ASP Referral Acknowledgement – Customer and Business Support

The following template will be used to by Customer and Business Support to acknowledge ASP referral received within 24 hours.

Customer and Business Support will record in the adult's case notes the email sent.

TEMPLATE

Email Subject – Adult Support and Protection Referral Acknowledgement

Dear ENTER NAME

Thank you for your referral dated ENTER DATE

We will make further inquiries and, if appropriate, fully investigate these concerns in accordance with our Adult Support and Protection Procedures.

If necessary, we will make further contact with you for more information.

If you should have any further concerns about this/these adult(s) or require an update regarding our enquiries, please contact the ENTER TEAM NAME on the email address above.

Your sincerely

ENTER TEAM NAME

FORTH VALLEY

Multi-Agency Adult Protection Referral Form - AP1 Form

FOR USE BY ALL AGENCIES & CARE PROVIDERS (EXCEPT POLICE)

An electronic (Word) copy of this form can be found on the [Practitioner Pages](#). Also on NHS Forth Valley's Adult Protection webpage.

Completed forms to be submitted to:

- intakecomcare@stirling.gov.uk for Stirling ASP concerns
- cart@clacks.gov.uk for Clackmannanshire ASP concerns
- asp@falkirk.gov.uk for Falkirk ASP concerns

ADULT AT RISK DETAILS (please PRINT details)					
NAME:		DOB:			
HOME ADDRESS:		CURRENT WHEREABOUTS:			
POSTCODE:		POSTCODE:			
TEL NO:		TEL NO:			
GENDER:		ETHNIC ORIGIN:		RELIGION (if known/relevant):	
COMMUNICATION NEEDS: (please provide details including communication aids required by the adult and specify first language if not English)					
GP NAME / ADDRESS:					

REFERRER DETAILS (please PRINT details)			
NAME:		DESIGNATION:	
AGENCY:		MOBILE/DIRECT DIAL NO:	
EMAIL ADDRESS:			
RELATIONSHIP TO ADULT BEING REFERRED:			
DATE AP1 SUBMITTED:			
IS A CRIME SUSPECTED /HAVE THE POLICE BEEN INFORMED? (Include: date, time, known action taken etc.)			
HAS THE ADULT BEEN NOTIFIED THAT THE CONCERN WILL BE SHARED WITH SOCIAL WORK OR OTHER RELEVANT AGENCIES?			
PROVIDE DETAILS OF HARM (suspected/witnessed/disclosed/reported). Please include dates/times of any specific incidents			
PREVIOUS CONCERNS (any past concerns about adults safety)			

Appendix 6

PROTECTIVE ACTIONS (any actions you or others have taken to protect the adult).

DETAILS OF CONCERN - YOU DO NOT HAVE TO MAKE A DETERMINATION IF THE THREE POINT CRITERIA IS MADE (information below will help inform the screener re: priority/level of risk).	
1) IN YOUR OPINION IS THE ADULT ABLE TO SAFEGUARD THEIR OWN WELLBEING, PROPERTY, RIGHTS OR OTHER INTERESTS? (If <u>no</u> , please state reason)	
2) IN YOUR OPINION IS THE ADULT AT RISK OF HARM? (if <u>yes</u> , please state reason)	
3) IN YOUR OPINION IS THE ADULT AFFECTED BY DISABILITY, MENTAL DISORDER, ILLNESS OR PHYSICAL OR MENTAL INFIRMITY (and are more vulnerable to being harmed than adults who are not so affected) (if <u>yes</u> , please specify)	

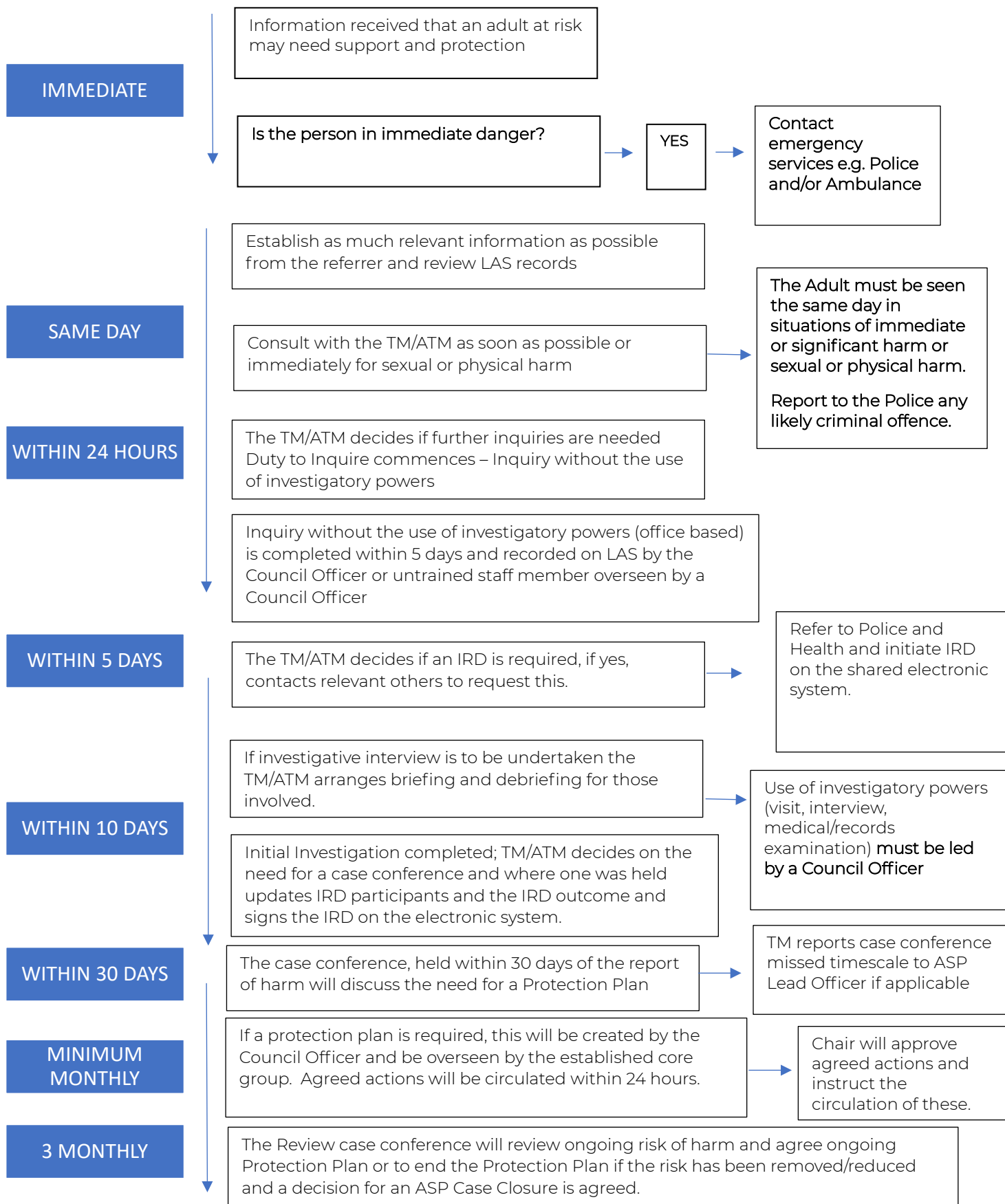
DETAILS OF PERSON SUSPECTED OF CAUSING HARM (If known) (please PRINT details)			
NAME		RELATIONSHIP TO ADULT:	
ADDRESS		TEL NO	

DETAILS OF MAIN CARER / RELATIVE / POA / GUARDIAN (please PRINT details)			
NAME		RELATIONSHIP TO ADULT:	
ADDRESS		TEL NO	

Appendix 7

FLOWCHART AND TIMESCALES FOR RESPONDING TO AN ASP REFERRAL

(Days refer to working days however any matter which needs to be shared with EDT should be)



LAS Number

ASP Procedures – Checklist for Council Officers

(Days related to working days)

REFERRAL AND INQUIRY STAGE – Council Officer or non-Council Officer overseen by one

SAME DAY | **WITHIN 24 HOURS**

- Date / /
- Consider and take any necessary immediate action
- ASP Acknowledgement email has been sent to referrer by CBS (see general LAS case notes)
- ASP Case added to your teams ASP Tracker spreadsheet
- Add a new LAS chronology item detailing the referral received (keep utilising this tool throughout the ASP episode)
- Review the referral and records held for the adult and others named in the referral, ensuring service user group and ethnicity are recorded.
- Consider the full range of partners that may hold important information related to the harm reported, the adult's ability to safeguard and the effect of any conditions to assist with agreeing the inquiry action plan.
- Record case note in ASP case notes to detail delegated step has been completed

Notes

WITHIN 5 DAYS

- Carry out the planned inquiry without use of investigatory powers
- Fully complete the duty to Inquire template detailing your assessment of the three-point criteria and send for approval
- Contact and provide any relevant feedback to the referrer
- Complete IRD paperwork if this is the recommended next step by TM/ATM
- Return IRD to TM/ATM
- Record case note in ASP case notes to detail delegated step has been completed

Notes

LAS Number

INQUIRY WITH THE USE OF INVESTIGATORY POWERS/ALLOCATED COUNCIL OFFICERS
STAGE – activities include any visits, interviews, medical examination and examination of records.

LEAD ON THE USE OF INVESTIGATORY POWERS

WITHIN 10 DAYS

- Date / /
- When allocated mark in your diary 30 working days from referral to set a timescale for case conference should the case proceed to this step
- Participate in briefing with TM/ATM
- Consider the 4 W's – Who, Where, What, When
- Consider a referral to Independent Advocacy
- Initiate the investigation step on LAS, recording the agreed 'Plan of investigation'
- Use the 'Plan for Investigative Interview' paperwork where an investigative interview is planned. (available to print in help section of LAS)
- Carry out with relevant partners the agreed use of investigatory powers (a visit, an interview, a medical examination, examination of records)
- Provide the adult with the 'Information for you' ASP HSCP leaflet, writing your contact details on this
- Complete the remainder of the ASP Investigation template on LAS – your risk assessment, analysis and summary and send for approval
- Where applicable upload any handwritten record of investigative interview and any other evidence gathered to ASP attached documents in the module
- If seeking updates from Police Scotland about the progress of any parallel criminal investigation use ForthValleyAdultProtectionInvestigations@scotland.police.uk

Notes

LAS Number

DECISION TO PROCEED TO CASE CONFERENCE STAGE

WITHIN 30 DAYS

- Think about multiagency attendance and complete the tracer for invites
- Plan the conference in a way that will maximise the adult's participation
- Create new AP2 Risk Assessment if not already in use
- Complete AP2 consulting with ASP partners and including their information
- Complete Council Officer Report for Case Conference
- Ensure and check that CO report and AP2 are shared with participants ahead of conference
- Share reports with Adult at Risk in an accessible way

Notes

POST CASE CONFERENCE STAGE

WITHIN 3 DAYS

- Complete and distribute Protection Plan
- Share Protection Plan with adult in an accessible way
- Email ASP Customer & Business Support Officer evelyn.mcgregor@falkirk.gov.uk to notify that the adult has been made subject to a protection plan (name and LAS number)

Notes

LAS Number

CORE GROUPS

MINIMUM
MONTHLY

- Schedule core group meetings as agreed at case conference, a series up until review case conference
- Complete note of core group and upload to ASP attached documents in the module
- Update and circulate Risk Assessment and Protection Plan

Notes

REVIEW CASE CONFERENCE STAGE

3 MONTHLY

- Think about multiagency attendance and complete the tracer for invites
- Plan the conference in a way that will maximise the adults participation
- Update AP2 Risk Assessment
- Complete Council Officer Report for Review Case Conference
- Think about and record the outcomes positive and negative for the adult in your report
- Ensure CO report and AP2 are shared with participants ahead of conference
- Share reports with Adult at Risk in an accessible way
- If an adult support and protection closure is agreed complete ASP closure and email ASP Customer & Business Support Officer evelyn.mcgregor@falkirk.gov.uk to notify that the adult is no longer subject to a protection plan (name and LAS number)

Notes

Appendix 9

Responding to allegations of harm where staff members are alleged perpetrators

DO: Gather the key FACTS - Ask the adult what has happened. If appropriate seek details of dates, times, injuries, witnesses and possible other victims (WHO? WHAT? WHERE? WHEN?)

DO: Reassure the adult that they will be kept informed as far as possible.

DO: Ensure the adult has any necessary immediate support and/or has information on how to seek this.

DO: Ensure that any evidence connected to the reported harm is not destroyed or contaminated.

DON'T: tell the family or person with Power of Attorney/Guardianship for the service user without a discussion with the Council Officer. It is their decision how and when to inform families and representatives. You may have useful information to aid this decision.

DO: Record the information you have been given accurately and make a **prompt** adult support and protection referral (API). This should include a chronological record of any past concerns about the staff member, including actions taken.

DON'T: Start your own investigation, including, interviewing the service user, family members, the staff member allegations have been made about, or other staff members.

The Local Authority has the legal responsibility to investigate allegations of harm, abuse or neglect under the Adult Support and Protection (Scotland) Act 2007. Only approved Council Officers accompanied by other relevant professionals can investigate adult support and protection concerns.

Any detailed questioning outside of gathering the FACTS and providing the adult with initial support and reassurance may obstruct or hamper a criminal investigation if one is required. It may be criminal offence to interfere with an ASP investigation.

DO: treat all allegations fairly, following the same process. This helps to protect the service user, the staff member, your service and you.

DON'T: allow your personal opinion about the staff member, or suspicions that the allegations may be malicious for example, prevent you from making the referral.

DO: Remember your duty to report any concerns about a staff member's fitness to practice to the relevant regulatory body, for example the Scottish Social Services Council (SSSC) or The Nursing and Midwifery Council (NMC). As part of their investigation, the Council Officer will ask you to confirm that this has been done.

(Adapted from factsheet authored by The Scottish Borders Council)

DO: refer to your HR policies and consult with your HR department to determine what action to take regarding the member of staff. The action required will depend on the nature and severity of the allegation. If the concern is regarding physical assault, sexual or financial harm, the staff member will need to be suspended, and a referral made to the Police.

For other allegations there is a range of actions which could be taken to protect the adult at risk of harm, for example:

Changing the shift pattern of the staff member

Ensuring that they always work with another member of staff

Allocating tasks where there is no direct contact with service users

DO: discuss and agree the appropriate actions for the staff member with Social Work to ensure that there is no risk of harm to the adult or other adults whilst the investigation into the allegation of harm is taking place.

DO: cooperate and assist as fully as possible with the Council Officer leading on the inquiry.

LAS Number

ASP Procedures – Checklist for Assistant/Team Managers
(Days related to working days)

REFERRAL AND INQUIRY STAGE – Council Officer or non-Council Officer overseen by one

SAME DAY | **WITHIN 24 HOURS**

- Date / /
- ASP contact been entered on LAS and delegated to a Council Officer or suitable untrained staff member who will be overseen by a Council Officer
- Action plan for inquiry agreed with delegated worker
- Has the ASP Tracker Spreadsheet been updated

Notes

WITHIN 5 DAYS

INQUIRY WITHOUT THE USE OF INVESTIGATORY POWERS

- Update case type to inquiry without the use of investigatory powers
- Has the Duty to Inquire template been fully completed detailing assessment of the three-point criteria, risk assessment and recommendations and sent to you for approval
- All relevant partners been contacted as part of the inquiry
- Record whether an IRD is required and provide a rationale for your decision
- Decide whether immediate use of investigatory powers is necessary

Notes

LAS Number

WITHIN 5 DAYS

INTERAGENCY REFERRAL DISCUSSION (IRD)

- Delegate IRD paperwork to worker for completion if this is your recommended next step
- Contact Police and relevant Health representatives to request IRD, outlining your rationale (where a LSI may be indicated send the police invite directly to ForthValleyAdultProtectionInvestigations@scotland.police.uk)
- Initiate IRD on shared electronic system
- Share social work research
- Hold and chair IRD
- Identify opportunities for joint investigation where applicable
- Record IRD risk assessment/discussion/decisions within 24 hours

Notes

INQUIRY WITH THE USE OF INVESTIGATORY POWERS/ALLOCATED COUNCIL OFFICERS STAGE – activities include any visits, interviews, medical examination and examination of records.

COUNCIL OFFICERS ALWAYS LEAD ON THE USE OF INVESTIGATORY POWERS

WITHIN 10 DAYS

- Date / /
- Allocate case to a Council Officer to lead on the use of investigatory powers
- Brief Council officer and any supporting staff on the activities to be carried out
- Provide debrief for Council Officer and supporting staff
- Discuss findings of investigatory activity and agree next steps – proceed to case conference or adult support and protection closure
- Update eIRD and participating partners with IRD outcome following activities
- Sign off eIRD

Notes

LAS Number

DECISION TO PROCEED TO CASE CONFERENCE STAGE

WITHIN 30 DAYS

- Notify ASP Lead Officer if timescale to case conference is missed (30 working days from referral)
- Support Council Officer to think about necessary multiagency attendance for tracer completion
- Instruct the completion of case conference report and AP2 risk assessment, providing timescales for these to be with you for review
- Ensure the CO report and AP2 are shared with participants ahead of conference
- Chair case conference or if ATM attendance at case conference
- Agree core group, membership and meeting frequency at conference
- Set date for review case conference
- Agree actions with corporate minute taker at the end of conference and ask these to be sent out to participants within 24 hours pending full minute

Notes

POST CASE CONFERENCE STAGE

WITHIN 3 DAYS

- Instruct completion of a Protection Plan, standard or comprehensive
- Review plan prior to distribution
- Instruct the Council Officer to email ASP Customer & Business Support Officer evelyn.mcgregor@falkirk.gov.uk to notify that the adult has been made subject to a protection plan (name and LAS number)

Notes

LAS Number

CORE GROUPS

MINIMUM
MONTHLY

- Review ASP monitoring and support and protection during CO Supervision or delegate to relevant supervising line manager
- Record Assistant Team Manager/Team Manager ASP case notes on the adults LAS record capturing CO supervision of the case
- Where necessary chair core group meeting where it isn't appropriate for the Council Officer to do so
- Chair Team ASP Tracking meetings where case progress and status will be reviewed
- Record Assistant Team Manager/Team Manager case notes capturing discussion and actions agreed at ASP Team Tracking Meetings

Notes

REVIEW CASE CONFERENCE STAGE

3 MONTHLY

- Instruct the completion of case conference report and update to AP2 risk assessment, providing timescales for these to be with you for review
- Ensure the CO report and AP2 are shared with participants ahead of conference
- Chair case conference or if ATM attendance at case conference
- Reaffirm core group, membership and meeting frequency at conference
- Set date for review case conference OR agree ASP closure
- Agree actions with corporate minute taker at the end of conference and ask these to be sent out to participants within 24 hours pending full minute
- If an adult support and protection closure is agreed complete ASP closure and email ASP Customer & Business Support Officer evelyn.mcgregor@falkirk.gov.uk to notify that the adult is no longer subject to a protection plan (name and LAS number)

Note

Oversight of Non-Council Officers Undertaking ASP Inquiry Work

The Adult Support and Protection (Scotland) Act 2007 (the Act) revised Code of Practice (COP) indicates that an inquiry can be undertaken by a non-Council Officer, unless there is a need to use investigative powers. These include Sections 7 to 10 of the Act, relating to a visit, interview, medical examination or examination of records.

The COP stipulates that *'Good practice would ensure that a Council Officer is involved in overseeing or supervising all activity relating to the Act'* (Pg. 48, ASP Code of Practice).

Best Practice in "oversight of all ASP Act activity" includes the following:

- Inquiries under section 4 of the Act are the statutory duty of the Council.
- An inquiry does not need to be undertaken by a Council Officer, unless there is a need for direct contact (either in person, by phone or virtually) with the adult and use of investigatory powers, in terms of a visit, interview, medical examination or examination of records in terms of sections 7-10 of the Act.
- Non-Council Officers undertaking inquiries must be supported by a Council Officer (who could be a frontline practitioner or manager) regarding their ASP role and the related tasks involved in the inquiry work, supporting the non-Council Officer to adhere to local ASP procedures.
- These ASP inquiries 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 in accordance with section 5 Duty to Cooperate.
- If other professionals/disciplines are not providing information as requested as part of inquiries, or if written records are required, this may require a section 10 request for information sharing. This can only be undertaken by a Council Officer.
- Once non-Council Officers have completed the tasks required as part of the inquiry, their findings should be reviewed by a Council Officer and/or a manager*.
- A non-Council Officer can act as a second worker and support a Council Officer, as agreed, during a section 7 visit and/or a section 8 investigative interview. Good practice is that the second worker has adult protection training appropriate for their role. (See Pg.52-53 of the Code of Practice).
- Where a fuller assessment of circumstances, including risk, is warranted, the Council Officer has the lead responsibility.
- If the non-Council Officer identifies additional risks, these should be discussed immediately with the Council Officer or responsible manager*.
- The non-Council Officer should have access to regular supervision, as per local supervision procedures, where they can reflect on their role and practice in ASP.

NOTE: *This manager must be a Council Officer or have undertaken Council Officer training, which is refreshed every 3 years.

PLAN OF INVESTIGATIVE INTERVIEW OF ADULT

<p><u>INTRODUCTIONS</u></p> <ul style="list-style-type: none">■ Show ID■ Purpose of visit■ Note taking■ No need to be interviewed – Outline of rights■ Answer some but not other questions■ Ground Rules■ Pace■ Anything Important for me to know about you■ Communication needs	
--	--

PLAN OF INVESTIGATIVE INTERVIEW OF ADULT

<p><u>RAPPORT</u></p> <p>■ Neutral Topics</p> <p>■ Open questions</p> <p>I don't know you</p> <p>Tell me....</p> <p>What do you like...</p> <p>■ Active Listen...</p> <p>OK – Right – yes- Uh Huh</p>	
---	--

PLAN OF INVESTIGATIVE INTERVIEW OF ADULT

FREE NARRATIVE

- Open questions

- What's it like living here...

- Tell me about your family....

- Do you know why we came to see you.....

- Are any things worrying you...

- Silence

- Active Listening

- Reflection "So you said..."

PLAN OF INVESTIGATIVE INTERVIEW OF ADULT

QUESTIONING

- OPEN – follow on from Free Narrative

Reverting to open – “tell me more....”

- SPECIFIC – “Wh” questions

Where?
When
Who was there?

- CLOSED
Did this happen?

Revert to open – tell me more about that....

- LEADING – TRY TO AVOID

PLAN OF INVESTIGATIVE INTERVIEW OF ADULT

CLOSURE

- Summary
- Check with 2nd Interviewer (is the plan achieved)
- Safety that night
- Discuss with manager
- Contact details
- Next contact
- Revert to Rapport like neutral topic

ASP Council Officer Role

Principles and Definitions

Any intervention under the Act should:

- Provide **benefit** to the adult and
- Be the **least restrictive** intervention to the adults' freedom

You must also have regard to:

- The wishes of the adult
- The views of others
- The importance of the adult participating as fully as possible
- That the adult is not treated less favourably
- The adults' abilities, background and characteristics

Adults at Risk

Are 16 or over who:

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

The first element of the above three-point criteria relates to whether the adult is unable to safeguard their own well-being, property, rights and other interests. A distinction should therefore be drawn between adults who lack these abilities and are unable to safeguard themselves, and those who are evidenced to have the ability, means or opportunity to keep themselves safe, but choose not to do so. An inability to safeguard oneself is not the same as an adult not having capacity. An adult may be considered unwilling rather than unable to safeguard themselves and so may not be considered an adult at risk.

Similarly, vulnerability or a lack of ability to safeguard, which is due to occasional problematic alcohol or drug use, would not by itself result in an individual being considered an "adult at risk". Adults have the right to make choices and decisions about their lives, including the use of alcohol and drugs, even if that means they choose to remain in situations or repeat behaviour which others consider unsafe. Without any additional

ASP Council Officer Role

Principles and Definitions (continued)

vulnerability, such as an illness, disability or physical/mental infirmity, adult protection intervention would not normally be appropriate.

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

Risk of Harm

An adult is at risk of harm if:

- Another person’s conduct is causing (or 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, 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

Inquiry without the use of investigatory powers stage

Section 4 Duty to Inquire

The Council 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 in order to protect the person’s wellbeing, property or financial affairs

ASP Council Officer Role

Inquiries without the use of investigatory powers stage

(continued)

Section 5 Duty to cooperate/report

The following public bodies and office holders must:

- Cooperate with the Council making inquiries under Section 4 and each other where this will assist the Council **and**
- Where the public body or office holder knows or believes
 - a) that a person is an adult at risk and
 - b) that action needs to be taken to protect them from harm

They must report the facts and circumstances to the Council:

- The Mental Welfare Commission
- The Office of the Public Guardian
- The Police
- The Care Inspectorate
- All Councils
- Health Boards
- GPs as per agreement reached between Royal College of General Practitioners and the Scottish Government March 2013

Inquiries with the use of investigatory powers stage

Section 10 Examination of Records

To enable a Council to decide whether action needs to be taken to protect an adult at risk, a Council Officer may require any person holding health, financial or other records (in any format) relating to an individual when the officer knows or believes to be an adult at risk to give copies of these records to the Council Officer.

- During a visit or at any other time
- If at any other time requirement must be made in writing

Records can be inspected by:

- The Council Officer or
- Any other person the council officer considers appropriate

ASP Council Officer Role

Inquiries with the use of investigatory powers stage

(continued)

Health records can only be inspected by a health professional i.e. a Doctor, Nurse, Midwife.

Your written authorisation to entitle you to access records should be shown (usually on rear of Falkirk Council ID card). If notification needs to be sent in writing it can be done by email or letter.

Section 49 of the Act provides that it is an offence for a person to fail to comply with a requirement to provide information under Section 10 unless that person has a reasonable excuse.

It is important that the adult is provided with the right kind of support at this stage and all other stages of the ASP process.

Section 6 Duty to Consider Support Services

If after making inquiries under Section 4, a Council Officer considers that it needs to intervene in order to protect an adult at risk from harm the Council must have regard to the importance of appropriate services, particularly **INDEPENDENT ADVOCACY SERVICES** to the adult concerned.

- Forth Valley Advocacy Service
- Tel: 01324 320 986
- Email: info@forthvalleyadvocacy.com

Assessing and managing communication difficulties.

The adult should be provided with assistance or material appropriate to their needs to enable them to make their views and wishes known. Wherever possible the adult should be asked which form of communication they prefer, e.g. technical aids or translator services. The involvement of a colleague from Speech and Language Therapy Services should also be considered. See STEP 4 ADULT AT RISK PARTICIPATION of your ASP Procedures for more information.

ASP Council Officer Role

Inquiries with the use of investigatory powers stage

(continued)

Appropriate Adult Service

Where there is active police involvement in the investigation, the use of an Appropriate Adult will be required for people with mental disorder; including mental illness, learning disability or personality disorder (includes adults affected by dementia, autistic spectrum disorder and acquired brain injury). The Police will arrange for the Appropriate Adult to attend.

Section 7 Visits

A council Officer has the power to enter any place to make necessary investigation to:

- Assist the Council in conducting inquiries under Section 4 to decide whether the adult is an adult at risk of harm; and
- Establish whether the Council needs to take any further action in order to protect the adult at risk of harm (under ASP or otherwise)

Who?

A Council Officer with another person who could assist the inquiries, e.g. Police Officer, Nurse, Care, Social Care Officer, Housing Officer etc.

When?

At reasonable times only (unless, for example, situations of immediate risk of physical harm).

Where?

Any place where the adult normally resides, temporarily resides or spends part of their time:

- The adults' home
- A relative or friend's home
- A care home
- A day centre
- A place of education, employment or other activity
- A respite unit or hospital/medical facility

The Council Officer can access all parts of the place visited, e.g. sheds, garages, out buildings and all areas used by or on the behalf of the adult,

ASP Council Officer Role

Inquiries with the use of investigatory powers stage

(continued)

including sleeping accommodation, facilities for hygiene, meal preparation areas and general living space.

Produce Evidence

To the adult at risk and, if appropriate, to others in the household.

A Council Officer must:

- Produce their Council ID badge and evidence of the identity of anyone accompanying them on the visit
- Show the Council Officer statement on their ID card as authorisation to visit the place, or produce a letter of Authorisation issued by the Council
- State the object of their visit

IF ENTRY IS REFUSED - FORCE CANNOT AUTOMATICALLY BE USED – CONTACT A TEAM MANAGER FOR ADVICE AS A WARRANT MAY BE REQUIRED.

Interview

Section 8

A Council Officer, and any person accompanying the Officer, may interview, in private, any adult found in a place being visited under Section 7.

The adult at risk (and any other person interviewed) must be informed of their rights not to answer any questions BEFORE the interview starts.

** Consider issues around capacity and consent.*

Investigative Interview Technique

I	I	<u>I</u> ntroduction
R	run	<u>R</u> apport
F	for	<u>F</u> ree narrative
Q	quick	<u>Q</u> uestioning
C	coffee	<u>C</u> losure

ASP Council Officer Role

Inquiries with the use of investigatory powers stage

(continued)

Introduction and Ground Rules

- Show ID and Council Officer Authorisation. State purpose of the visit, reasons for taking written notes etc.
- Inform the individual of their right not to answer some/all questions, no need to agree to interview etc.

Rapport

Commence with neutral subject, appropriate and relaxed, move forward when rapport is established e.g. "What have you been doing today?" etc.

Free narrative

Open questions e.g. "Do you know why we have come today?"
"What is it like living here?" "Tell me about your family?"

No interruptions, tolerate long pauses, "uh huh" or "ok", open prompts "then what" or "anything else". Reflect in their words "so you were saying".

Questions

Open questions, "What?" "When?" "Who?" "Where?". Use "uh huh", "You said earlier....tell me about that?", "Tell me a bit more."

Closure

Summarise in the adults' words and check accuracy. Explain what will happen next, give contact details, neutral ending.

ASP Council Officer Role

Medical Examination

Section 9

Where a Council Officer finds a person known or believed to be an adult at risk in a place visited under Section 7 and the Officer or person accompanying them is a health professional (doctor, nurse or midwife) the health professional can conduct a private medical examination of the person.

The adult at risk must be informed of their right to refuse to be examined BEFORE a medical examination is carried out.

*** Consider issues around capacity and consent.**

The purpose of a medical examination can include:

- The adult's need for immediate medical treatment for a physical illness or mental disorder
- To provide evidence of harm to inform a criminal prosecution under the direction of the Police or for the application for a Protection Order
- To assess the adult's physical health needs or
- To assess the adult's mental capacity.

RECORD OF INVESTIGATIVE INTERVIEW OF ADULT

Adults Name:	<input type="text"/>		
Adults Address:	<input type="text"/>		
Adults D.O.B:	<input type="text"/>	LAS Number	<input type="text"/>
Date of Interview	<input type="text"/>		
Time of Interview	<input type="text"/>		
Place of Interview	<input type="text"/>		
Interview undertaken by			
(PRINT NAMES)	1st Interviewer	<input type="text"/>	
	2nd Interviewer (recording)	<input type="text"/>	
We agree this is an accurate record of interview			
(SIGN NAMES)	1st Interviewer	<input type="text"/>	
	2nd Interviewer	<input type="text"/>	
Others present	<input type="text"/>		
	<input type="text"/>		
<input type="checkbox"/>	Consent to interview granted by service user.		

TEMPLATE FOR MAKING SECTION 10 REQUESTS



**Protocol for Requesting Information from Financial
Institutions Under
Section 10 Adult Support and Protection (Scotland) Act
2007 (ASPA)**



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 [insert relevant organisation name and where the power is delegated from the local authority state 'with delegated authority and powers in relation to this request from [ENTER LOCAL AUTHORITY NAME] formally require disclosure of information from (company name and address). The request is made under Sections 4 (Inquiry) and 10 (Examination of Records) of the Adult Support and Protection (Scotland) Act 2007 (the Act) on the basis that we know or believe the below named to be an adult at risk 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 under 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 Adult (Customer)	
Date of Birth (if available)	
Address (if available)	
Account Names, Numbers and Sort Codes (if available)	
Brief Description of the ASPA Inquiry	
Financial Information that is required (please include any third party mandates relating to the accounts located)	
Information Format required	<input type="checkbox"/> <i>Hard Copy</i> <input type="checkbox"/> <i>Electronic Copy to the stated email addresses above (where available)</i>
Information Required by	<i>Date Month Year</i>
Council Officer's Name, Contact Details and Signature	

Yours faithfully

Information Sheet

Designated Agency Application for Disclosure of Information under Sections 4 and 10 of the Adult Support and Protection (Scotland) Act 2007

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

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

“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 [insert agency].

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

Section 3 of the Act defines an 'adult at risk' as an individual aged 16 or over who is unable to safeguard their own well-being, property, rights or other interests and is at risk of harm. In such instances and where the person is more vulnerable 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. **Whilst you will be concerned about customer confidentiality, it is important to note that NOT sharing this information may place the adult at further risk of harm. Please refer to your internal guidance.***

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

For the avoidance of doubt, data processing in relation to this request is necessary for compliance with legal obligations [sections 4, 10 and 49(2) of the Adult Support and Protection (Scotland) Act 2007] to which the data controller [the local authority, the Council Officer and the financial institution in receipt of this request] is subject.¹ 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.

¹If the records in question contain 'special categories of personal data', in addition to identifying a lawful basis for processing data under Article 6 of the GDPR, an additional condition under Article 9 (2) of GDPR must also be met in order to share data lawfully. Special Category data includes: Racial or ethnic origin; Political opinions; Religious or philosophical beliefs; Trade Union Membership; Genetic data; Biometric data (when used for ID purposes); Health (physical or mental); and, Sexual life or orientation. If the financial institution is complying with a Section 10 request under the Act, the Article 9 (2) condition will likely be: (b) Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by (UK) law. Section 10(2) of the DPA then requires a further condition in Part 1 of Schedule 1 of the DPA to be met, for example that in paragraph 1: Employment, social security and social protection.

Should you be unfamiliar with the Adult Support and Protection (Scotland) Act 2007, you can view a copy of it at: <http://www.legislation.gov.uk/asp/2007/10/contents>

Council Officer Guidance Notes

The wording and ordering of this document has 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.

Please use this template in conjunction with the [Adult Support and Protection \(Scotland\) Act 2007 Code of Practice \(April 2014\)](#) especially noting chapter ten.

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.

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 nd 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: <ul style="list-style-type: none"> • <i>the balance of Ms XXXX' account(s)</i> • <i>any current Standing Orders or Direct Debits (including to whom payable, regularity and amounts)</i> • <i>Statements covering the period</i> • <i>We should also wish to request similar information for any other account in her name of which we are unaware."</i> • <i>Whetherholds a Bank or Building Society account with your bank?</i> • <i>If so, whether any other persons are signatories to his/her account(s)?</i> • <i>Please provide copy statements in relation to any accounts held byeither jointly or solely for the lastmonths</i> • <i>Similar information regarding any other account held in this name.</i>

	<ul style="list-style-type: none"> • <i>Any known liabilities/debts/mortgages etc.</i> • <i>Any relevant financial information held in wills</i> • <i>Any accounts in other names e.g. joint accounts</i>
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	<p>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.</p> <p>In other circumstances please indicate in your request the required time frame e.g. 7, 14 or 21 calendar days.</p>
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.

Use of Information Received Under Section 10

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 proportionate. 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.

Where a Section 10 Request is Refused

- i. Request that the company/organisation provide their reasons promptly in writing if they have not done so.
- ii. 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.
- iii. Record the initial refusal, reasons given and the actions and outcomes thereafter.

Good Practice for Effective Participation by the Adult in Adult Support and Protection Case Conferences

Developed by:

The National ASP Implementation Group

Subgroup:

User Voice subgroup

Endorsed:

This national ASP Resource was formally endorsed by the National ASP Strategic Forum on 10/09/2024

Development of this Resource:

In August 2022 the National Implementation Group and its Subgroups were set up to assist Adult Protection Committees with the implementation of changes to policy and practice that may be required as a result of the introduction of the Revised ASP Code of Practice, which was published in July 2022.

The Intended audience for this specific resource has been specified as:

This guidance is aimed at any (multi agency) professional involved in Adult Support and Protection case conferences.

The proposed review date of this Resource is intended to be no later than March 2027. This will generally be three years from the date of introduction, though this can be amended if required.

The Responsibility for overseeing reviews and revisions of this resource currently lies with the National ASP Implementation Group. However, in future, should that Group have ceased to operate, this responsibility will move to the National Adult Support and Protection Coordinator, who will call upon appropriate support and assistance – consulting with relevant parties.

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Good practice for effective participation by the adult in Adult Support and Protection case conferences

Introduction

“The adult’s views and wishes are central to adult support and protection, and every effort should be made at each stage of the process to ensure that barriers to the adult’s participation are minimised.”

“There should be a basic assumption that the adult will be involved in all meetings that are about them. It should be the responsibility of the relevant adult protection practitioners and of those chairing case conferences to ensure that the adult has been invited to meetings and that they are involved to maximise the likelihood of their attendance.”

(From national [Code of Practice for Adult Support & Protection](#) July 2022 – see Chapter 4 for full details about Adult Participation).

What is the purpose of this guidance?

This document offers good practice guidance to effective participation of adults being supported and protected under the [Adult Support & Protection \(Scotland\) Act 2007](#), particularly in relation to ASP Case Conferences. It provides pointers as to how to facilitate meaningful engagement, taking a holistic view of the perspective and circumstances of the adult, including experience of trauma.

How was the guidance developed?

This guidance was developed by representatives from a range of agencies and services who participated in the work of the ‘User Voice’ Subgroup of the national Code of Practice Implementation Group which was set up to implement the revised ASP Code of Practice (2022).

The guidance draws upon existing practice already taking place across Scotland, which was collated via a feedback survey to all APC areas. It is also based on a literature review and interviews with ASP practitioners and people with lived experience as part of a doctoral research study currently being undertaken within Scotland.

Prior to publication, views and feedback about the draft guidance were sought from a range of stakeholders, including the Authentic Voice / Resilience Learning Partnership.

What does the guidance cover?

The guidance starts with an overview of the principles underpinning working with individuals being supported and protected under the Adult Support & Protection (Scotland) Act 2007, alongside the six principles of trauma-informed practice. An overview of the challenges and barriers which may impact on an adult’s participation are set out, followed by practical steps to facilitate positive and meaningful involvement and engagement, before, during and after case conference meetings.

Key points in relation to the offer and involvement of independent advocacy are provided, and the guidance includes a specific section which shares a good practice checklist for those chairing case conferences – a critical role.

A series of appendices provide templates which may be helpful, and also signpost to additional resources.

When an ASP Case Conference is being held about my situation...



...put yourself in my shoes!

Potential barriers

It is important to anticipate potential barriers which may impact on an adult's participation.

Be professionally curious:

What is preventing the person from participating and/or wishing to attend?

Emotional Factors	Practical Factors
<ul style="list-style-type: none"> • Anxiety, shame, mistrust based on experience • Cognitive and mental health needs • Trauma & re Traumatization • Undue Pressure • Discussing Personal & Sensitive Topics in a group setting • Rigid Procedures (lack of flexibility – breaks etc) 	<ul style="list-style-type: none"> • Specific Communication needs • Accessible Advance Information • Technical (internet) access • Venue Accessibility • Meeting size, attendees, duration, procedural jargon

How can you facilitate participation?

Stop & Think

*What will work best for **this** person?*



Before the Meeting

- **Participation begins with the first contact** and wording of introductory communication: How are formal ASP letters worded? Formality can frighten people and they may believe they are being blamed. Guilt Shame Anger Fear can impact on someone's desire to attend and/or participate.
- Written materials need to be accessible (easy read; larger print; audio?) – Check the person's understanding of the process and of their expectations of the meeting. Will you send the agenda in advance? Do you have an APCC Video which they can watch?
- Ask the person **where** they want to attend – virtual or in-person meeting and provide necessary support for this choice (transport, IT, advocacy etc)
- Ask the person **how** they want to contribute to the meeting (i.e. When they would like to speak...at the beginning or after the other people) Would they like advocacy to support them to have their say? Do you have a template to capture their views?
- Consider **who** may affect their ability to participate (i.e. police (have I done something wrong?), the psychiatrist; the cause of harm (fear, undue pressure, untrustworthy relationships)
- Consider **how many** people really need to be there? Can one person represent a team or service? Does a practitioner's manager really need to attend? Can some of the work

be done before the APCC via information sharing communication? i.e. resource discussions; 3rd party information. Could legislative options or SOME decisional capacity considerations be explored via phone call or email in advance?

CAUTION: PERSON SHOULD NOT BE DELIBERATELY EXCLUDED FROM DECISION MAKING FORUMS WITHOUT DUE EXPLANATION

Stop & Think

What can we do to make it easier for the person to attend?

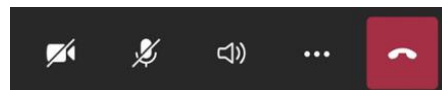
- If the person does not wish to attend, how are their views and wishes going to be represented? (Advocacy/other person; written or audio record)
- At this point, the opportunity could be taken to capture the views of the individual (regardless of whether or not they attend ASPCC) based on the following Questions:



- What things in your life are most important to you?
- What is difficult in your life?
- How safe do you feel?
- What do you think should happen to keep you safe?

During the Meeting: *Whose meeting is it anyway?*

- **Person Centred** — Please Do Not let the person be waiting around to be invited into the meeting. **This is not person centred. It is process driven.** Consider an alternative – could the meeting begin with the person, supporter, chair and council officer and then other people join them? This would allow the person to meet the chair who could explain the meeting format and ask how the person would like to participate in the meeting. If they are joining the meeting after others, consider ways to reduce the impact of this - ask the others to leave the room and re-enter; turn their cameras and microphones off until the person is settled.
- **Duration** — APCCs can be tiring. Keep it to 1 hour or take breaks. It may be helpful for some resource & admin discussions to occur outside the meeting with a summary of these to be provided so that the person hears, understands, and is included in the final discussion. But be careful **not to** conclude decisions in the person's absence.
- **Inclusive communication** — Some (but not all) people actually appreciate the structure and formality of an APCC. But we still need to ensure that the terminology is inclusive (avoid professional jargon) and that interpretative services, supports for communication (e.g., Talking Mats, advocacy) are arranged in advance.
- **Format** — Chair introduces and sets the scene but then who speaks next? Consider asking the person if they would like to tell the meeting their views about their situation or would they rather hear the others present their reports before they share their views and comments?
- **Wellbeing** — the person may not be confident to interrupt or ask for a break or time out. The chair (or advocacy worker) should periodically check their wellbeing. 🙌



- **Understanding** — The Chair should periodically (perhaps after each speaker) check the person's understanding and provide a summary if necessary. After each presentation/ report, the adult may be invited to ask the professional/s questions.
- **Collaboration** — Consider (in advance) whether the person is able and/or willing to be involved in the support & protection plan.

After the meeting

- Share the minutes of the meeting with the person/advocacy worker.
- Nominate someone to explain what has happened, and to check their understanding of the decision making and the support & protection plan.
- At this point, the opportunity could be taken to check in with the individual about their experience of the process so far – questions along the following lines might be helpful:

- Have you felt listened to?
- Have you felt involved in decisions made about your safety?
- Do you feel safer?

Top tips about use of advocacy

- Provide accessible information and give adult time to consider advocacy.
- Explain to family members/carers to help in providing information about advocacy.
- Refer to advocacy as early in the ASP process as possible so that they can get to know the person well in advance of any meetings. Consider re-arranging the meeting if the referral has been too late to allow advocacy to meet the person first.
- Advocacy helps people speak up when they find it difficult.
- Advocacy is independent and not part of the Council or the NHS.
- Advocacy will help the person understand their rights and options.
- Advocacy will make sure professionals know what the person wants but they will not share their own views.

Good practice checklist for chairs to promote the participation of the adult in case conference.

- ✓ **Ask** yourself why an adult may not be willing or able to participate (see list of barriers on page 4)
- ✓ **Ask** the adult/supporter what supports they need to participate.
- ✓ **Consider** alternative, creative approaches to overcome barriers as suggested above
- ✓ **Consider** meeting the adult beforehand to involve them in planning their participation; to explain the formalities and allow them the opportunity to ask questions.
- ✓ **Consider** ways to reduce the impact of a restricted information section (could this be conducted separately or at a different time?)
- ✓ **Explain** information clearly before/during/after the meeting. Written information to be provided in an accessible format, and advocacy offered at the earliest opportunity.
- ✓ **Ensure** the adult's voice is captured & expressed, whether or not they are present.
- ✓ **Check** with the adult that they have understood any information or decisions.
- ✓ **Confirm** that decisions and outcome will be conveyed to the adult after the meeting.

Appendix – Useful Resources

Iriss e-learning:

- [Working together in adult support and protection](#) / Iriss
- [Multi-agency adult support and protection conferences \(case conferences\)](#) / Iriss
- [Working Together in Adult Support and Protection – Bitesize](#) / YouTube

Adult Protection Case Conference What will be talked about (Agenda) – Chair Prompt

Have all attendees received the meeting reports in advance?

Have you or the Council Officer met with the adult at risk and where applicable their supporters in advance to help them prepare?

Meeting begins

This is an Initial /review adult Protection case conference for

And had been convened under the Adult Support and Protection (Scotland) act 2007 to share information and assess the level of risk of harm. The meeting will decide if Meets the criteria for further review under adult support and protection and will formulate a safety and protection plan. This will help us determine the support And their supporters require to meet his /her needs safely and effectively.

Reminder re. restricted information sharing - Restricted Access

Service users have a right to [access information held about themselves](#)

The APCC minutes will therefore be shared with the adult and their representative. Any confidential or third-party information should be recorded under restricted access section of the minutes. Members of the Conference need to highlight confidential information to the Chair and minute taker.

1	<p>Who is at the meeting? Apologies? Chair Prompt:</p> <ul style="list-style-type: none"> • Has the adult been invited? If not, why not? • Has the adult’s representative been invited? If not, why not? • Has an advocate been invited? If not, why not?
2	<p>Why is the meeting happening?</p> <ul style="list-style-type: none"> • Council Officers Case Conference Report • Have the adult’s views been captured? If not, why not? • Is there any new information to share since drafting the report? • Is there any disagreement? • Discuss any interim safety plan in place

3	<p>What are we worried about? AP2 Risk Assessment</p> <ul style="list-style-type: none"> • Type of harm • Imminence of harm • Likelihood of harm • Severity of harm • Protective factors • Strengths and abilities
4	<p>What could we do to make things safer?</p> <ul style="list-style-type: none"> • Discussion and formulation of protection plan • Standard or comprehensive plan? • Further action needed under AWI or MH Act? • Protection Orders required under ASPA?
5	<p>Post Case Conference Support</p> <ul style="list-style-type: none"> • Core Group? Who? Frequency of meetings? • Circulation of agreed actions
6	<p>Date of next meeting – Review Case Conference</p> <ul style="list-style-type: none"> • Schedule the date at the initial meeting
7	<p>Post meeting discussion with Corporate Minute Taker</p> <ul style="list-style-type: none"> • Are there any points of clarity for minute taker • Agreed actions for prompt circulation

Initial Case Conference Agreed Actions
 (CIRCULATION NO LATER THAT 2 WORKING DAYS FOLLOWING MEETING)

Adult Support & Protection- Initial Case Conference – Agreed Actions
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NAME:		DATE OF BIRTH	
ADDRESS			
LAS NO			
DATE OF MEETING			
VENUE			

ATTENDANCE AND APOLOGIES

PRESENT			
APOLOGIES			

ACTIONS		
Action	Responsibility	Timescale

DATE OF NEXT MEETING

CHAIRPERSON:	Date typed:
	Ref:

**APPLICATION FOR WARRANT FOR ENTRY
in Relation to a Visit (under section 7)**

**Under Section 40(1)(b) of The Adult Support and Protection
(Scotland) Act 2007 (Justice of the Peace)**

Commission area of Central, Tayside and Fife
At Falkirk

I, (*insert name*), being an authorised Council Officer appointed by Falkirk Council, having its principal place of business at Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE hereby apply for a Warrant of Entry to the undernoted place, and any adjacent place at

..... (*insert address*)

for the purposes of inquiries being made by Falkirk Council under Section 4 of the 2007 Act into the case of

.....(*insert name and address of person*).

It is necessary to enter the above place, and any adjacent place, for the following reasons:
(*continue on a separate sheet if necessary*) [1]

A Council Officer has been/or reasonably expects to be refused entry to..... (*insert address*)

*is otherwise unable to enter the place concerned/ Or
(**please delete as appropriate*)

*believes that any attempt by a Council Officer to visit the place without a Warrant would defeat the object of the visit because:

*I consider that making an application to the Sheriff is not practicable and that the adult at risk is likely to be harmed if there is any delay in granting such an Order or Warrant for the following reasons:
(*continue on a separate sheet if necessary*)

Applicant (Signed):

Address: Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE .

Date:

Additional notes relating to completion of JPO1, JP02, JP03, JP04.

The numbers correspond to those noted in the forms.

1. Continue on separate sheet if necessary. Delete as appropriate.
2. Amend as appropriate.
40(5) --warrant for entry in relation to Removal Order.
40(6)- warrant for entry granted in relation to a visit under Section 7 of the Act. Delete as appropriate
3. Continue on separate sheet if necessary.
4. Where appropriate, evidence produced.
5. Delete where appropriate. Where the adult has capacity to consent and does not consent, evidence that the subject has been unduly pressured, per Section 35 of the Act, must be provided.
6. Additional written evidence may be attached to this application.

These forms are also available from the shared drive for completing as a word document if required.

WARRANT FOR ENTRY UNDER THE ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT' 2007

Commission area of Central, Tayside and Fife
At Falkirk

Name of the person who is the subject of the inquiries

At (address)

I, (Justice of the Peace)
having heard evidence on oath from (name(s))

Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE

and being satisfied on the information provided that for the purposes of inquiries by said council under section 4 of the 2007 Act it is necessary to enter the specified place, and any adjacent place, at

..... (insert address)

By virtue of the powers conferred on me by section 40(5)/40(6) of the above Act, hereby AUTHORISE

(1) Authorised council officer (name)

Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE

(2) Any constable of
(name of the force maintained for the area in which the place is situated)

to enter the specified place, and any adjacent place.
Said warrant to remain valid for the period beginning from this date and time until (12 hours from the time of granting).

And further providing authority to any such constable, to do anything, using reasonable force where necessary, which the constable considers to be reasonably required in order to fulfil the object of the visit.

Signature (Justice of the Peace)

Date/Time

Additional notes relating to completion of JPO1, JP02, JP03, JP04.

The numbers correspond to those noted in the forms.

1. Continue on separate sheet if necessary. Delete as appropriate.

2. Delete as appropriate.
40(5) --warrant for entry in relation to Removal Order.
40(6)- warrant for entry granted in relation to a visit under Section 7 of the Act. Delete as appropriate

3. Continue on separate sheet if necessary.

4. Where appropriate, evidence produced.

5. Delete where appropriate. Where the adult has capacity to consent and docs not consent, evidence that the subject has been unduly pressured, per Section 35 of the Act, must be provided.

6. Additional written evidence may be attached to this application.

These forms are also available from the shared drive for completing as a word document if required.

**APPLICATION FOR REMOVAL ORDER UNDER SECTION 40(1)(A)
OF THE ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT
2007**

Commission area of Central, Tayside and Fife
At Falkirk

I, (name),
Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE hereby
apply for a warrant to enter the place, and adjacent place, at

..... (address)

and an order to remove (name of subject of the application) by

Council Officer/Council nominee

Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE
(designation, name and address of person to move subject)

to the following place

.....(address)

on the following grounds:-

Statement or evidence to that effect on whether the adult at risk is considered to be incapable of
consent or otherwise:

The subject of the order *does/does not* consent to the order *for the following reasons* (if not
consenting):

I consider that the place to which the adult at risk is to be moved is available and
suitable for the following reasons:

I consider that making an application to the sheriff is not practicable and that the adult at
risk is likely to be harmed if there is any delay in granting such an order or warrant for the
following reasons:

Applicant (Signed – Applicant) Address

Date

Additional notes relating to completion of JPO1, JP02, JP03, JP04.

The numbers correspond to those noted in the forms.

1. Continue on separate sheet if necessary. Delete as appropriate.

2. Delete as appropriate.
40(5) --warrant for entry in relation to Removal Order.
40(6)- warrant for entry granted in relation to a visit under Section 7 of the Act. Delete as appropriate

3. Continue on separate sheet if necessary.

4. Where appropriate, evidence produced.

5. Delete where appropriate. Where the adult has capacity to consent and does not consent, evidence that the subject has been unduly pressured, per Section 35 of the Act, must be provided.

6. Additional written evidence may be attached to this application.

These forms are also available from the shared drive for completing as a word document if required.

(JP04)

**REMOVAL ORDER UNDER SECTION 40(3) OF THE
ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007**

IN RESPECT OF:-

Name (the subject of the order)

I
,

Having on this date examined (name and designation of Council Officer) on oath and being satisfied on the information provided. By virtue of the powers conferred on my by section 40(3) of the said Act, hereby AUTHORISE

(1) council officer

Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE
.....,, ,, . *council nominee (name and designation)

Falkirk Council, Falkirk Stadium, 4 Stadium Way, Falkirk, FK2 9EE
..... (address)

(2) To remove the subject of the order the following place within 12 hours of the granting of this order.

Address of place:

(3) Period within which order no longer has effect (not exceeding 24 hours)

Signature (Justice of the Peace),,

Falkirk

Date Time

Additional notes relating to completion of JPO4, JP02, JP03, JP04.

The numbers correspond to those noted in the forms.

1. Continue on separate sheet if necessary. Delete as appropriate.
2. Delete as appropriate.
40(5) --warrant for entry in relation to Removal Order.
40(6)- warrant for entry granted in relation to a visit under Section 7 of the Act. Delete as appropriate
3. Continue on separate sheet if necessary.
4. Where appropriate, evidence produced.
5. Delete where appropriate. Where the adult has capacity to consent and does not consent, evidence that the subject has been unduly pressured, per Section 35 of the Act, must be provided.
6. Additional written evidence may be attached to this application.

These forms are also available from the shared drive for completing as a word document if required.