



# Shetland Inter-agency Adult Protection Procedures

*'Working Together to Keep Everyone Safe in Shetland'*



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SCOTLAND**  
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# SHETLAND INTER-AGENCY ADULT PROTECTION PROCEDURES

## *Act Against Harm*

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## What to do if you are worried about an adult?

**To make an Adult Protection Referral or raise a concern about the safety and wellbeing of an adult, please contact the Duty Social Worker. [See Definition of an Adult at 4.19](#)**

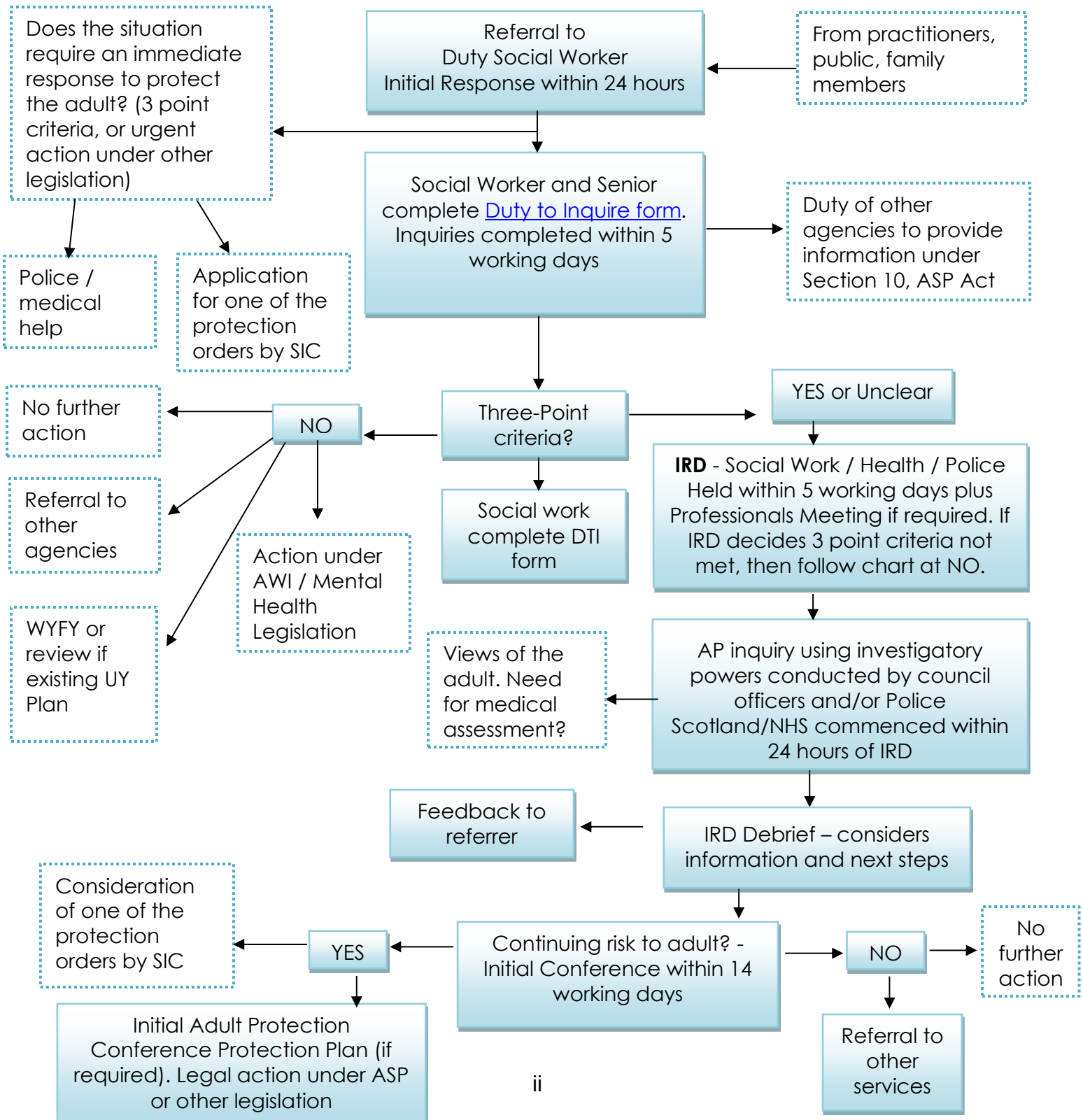
<b>Adult Protection Duty Social Work Service</b>	<b>Telephone</b>
Monday to Friday 9 am – 5 pm During Working Hours	<a href="mailto:dutysocialwork-adults@shetland.gov.uk">dutysocialwork-adults@shetland.gov.uk</a> 01595 744468
<b>Duty Out of Hours Service</b> – for both adults and children (outwith above times)	01595 695611

<b>Police</b>
24 hour cover Lerwick Police Station 101 <b>In an emergency call 999</b> Inter-Agency Referral Discussions: <a href="mailto:HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk">HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk</a> Child Protection Professionals' meetings: <a href="mailto:Highlandislandsconcernhub@scotland.police.uk">Highlandislandsconcernhub@scotland.police.uk</a>

<b>NHS Shetland</b>	<b>Telephone</b>
Gilbert Bain Hospital – Accident and Emergency	01595 743000
NHS 24	111
<b>In an emergency call for an ambulance on 999</b>	

## FLOWCHART

This flowchart represents the process of responding to a referral that indicates an adult may be at risk of harm. At any stage in the process, emergency action to protect the adult, or a decision that the adult does not meet the Three-Point Criteria, or that action under the Mental Health (Care and Treatment) (Scotland) Act 2003 or Adults with Incapacity (Scotland) Act 2000 would better meet their needs, can stop the process.



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## **EXPLANATION OF TERMINOLOGY**

### **GLOSSARY:**

SPPC	-	Shetland Public Protection Committee
APCC	-	Adult Protection Case Conference
IRD	-	Inter-Agency Referral Discussion
FGM	-	Female Genital Mutilation
GIRFEC	-	Getting it Right for Every Child
GP	-	General Practitioner
ICT	-	Information and Communication Technology
LGBT	-	Lesbian, Gay, Bisexual and Transgender
MHO	-	Mental Health Officer
NHS	-	National Health Service
PVG	-	Protecting Vulnerable Groups
SWIFT	-	Social Work Information System
UY	-	Understanding You
WYFY	-	With You For You assessment of adults' care needs

## **OPENING HYPERLINKS WITHIN THE INTERNET VERSION OF THIS DOCUMENT**

To open a hyperlink you should hover over the link and when you see the pointing finger (  ) left click once. If this does not work, right click when you will be presented with a number of options. Choose "Open Hyperlink" which will take you to the website or document.

Please report any links that do not work to the Lead Officer for Shetland Public Protection Committee (see the Contacts page on [www.safershetland.com](http://www.safershetland.com))

## Chapter 1: Introduction

- 1.1 Most adults who may be considered to be at risk of harm manage to live their lives safely with the assistance of caring partners, relatives, friends, family and with the support of medical and social services provided by professional agencies and volunteers. However, some people will experience harm such as physical abuse, sexual abuse, psychological harm or exploitation of their finances or property. The Adult Support and Protection (Scotland) Act 2007: [Adult Support and Protection \(Scotland\) Act 2007 \(legislation.gov.uk\)](#), Code of Practice 2022: [Adult Support and Protection \(Scotland\) Act 2007: Code of Practice \(www.gov.scot\)](#) was introduced to ensure that adults who experience such harm will be protected.
- 1.2 The Code of Practice for Adult Support and Protection is clear that Adult Support and Protection includes a broad range of people including some people who have substance dependency problems or who are homeless or in insecure accommodation. It can also apply to people who may be placed at risk and whose human rights may be infringed through inappropriate arrangements for their care.
- 1.3 Adult Support and Protection is everyone's business – and the special responsibilities of the agencies that are members of Shetland Public Protection Committee (SPPC).
- 1.4 The Shetland Inter-Agency Adult Support and Protection procedures have been developed to support consistent practice by all agencies in Shetland who are members of the Shetland Public Protection Committee. These procedures have been agreed by NHS Shetland, Shetland Islands Council, Police Scotland and the Third Sector represented by Voluntary Action Shetland.
- 1.5 Shetland Public Protection Committee fulfils all the functions of an Adult Protection Committee as laid down in the Adult Support and Protection (Scotland) Act 2007 and the 2022 Code of Practice. The work of Shetland Public Protection Committee is based on the principle that everyone - all agencies including the Third Sector and the wider community - have responsibilities to ensure that adults who may be at risk of harm in Shetland are safe, respected and included and fully involved in all decision making. Our aspiration for all adults who may be at risk of harm is that they are empowered through support from the responsible agencies to be free from harm and enabled to make decisions and choices about their lives and to live as independently as possible in relation to their personal circumstances.

## **Chapter 2: Policy and Principles**

- 2.1 All Adults at Risk have a right to protection from harm and exploitation and to adequate physical, emotional and social care support.
- 2.2 All concerns and suspicions of harm will be taken seriously and investigated in accordance with agreed inter-agency procedures within safe timescales.
- 2.3 All agencies are committed to working in an open and cooperative way and prioritising situations where an adult may be at risk.
- 2.4 The Adult at Risk will be informed and involved wherever possible in any adult protection process. Any assistance that they require to participate fully will be provided and their views sought and respected.
- 2.5 It is acknowledged that people who may cause harm to an adult may do so unintentionally and they may be provided with appropriate support in accordance with their particular needs. It is also recognised that individuals who cause harm to others may themselves be an adult at risk and their needs should also be assessed.
- 2.6 Work will be carried out on the basis of partnership with the adult and their families and carers, wherever appropriate.
- 2.7 All interventions under these procedures must be person-centred and comply with current legislation and guidance on equality and diversity, reflecting best practice in areas of gender, race, disability, age, sexual orientation and religious belief. All interventions should uphold the adult's rights under United Nations conventions.
- 2.8 **Overarching Principles Adult Support and Protection (Scotland) Act**  
Any person or body taking a decision under the Adult Support and Protection (Scotland) Act 2007 must be able to demonstrate that the principles of the Act have been applied to clear decision-making and to their intervention.  
Any intervention:
- a) Will provide benefit to the adult which could not reasonably be provided without intervening in the adult's affairs; and
  - b) Is, of the range of options likely to fulfil the object of the intervention, the least restrictive to the adult's freedom.
- 2.9 In addition any intervention must have regard to:
- a) the adult's ascertainable wishes and feelings (past and present);
  - b) any views of
    - the adult's nearest relative
    - any primary carer, guardian or attorney of the adult, and
    - any other person who has an interest in the adult's wellbeing or property; and

- c) the importance of
- the adult participating as fully as possible in the performance of the function; and
  - providing the adult with such information and support as is necessary to enable the adult to participate.

Public bodies or office holders must also have regard to:

- d) the importance of the adult not being, without justification, treated less favourably than the way in which a person who is not an Adult at Risk of harm would be treated in a comparable situation;
- e) the adult's abilities, background and characteristics.

## 2.10 **The European Convention on Human Rights and the United Nations Convention on the Rights of Persons with Disabilities**

Human rights in Scotland are the subject of important legal safeguards, in particular as a result of the [Human Rights Act 1998](#) and the [Scotland Act 1998](#). These give domestic legal effect to internationally-recognised rights and freedoms found in the [European Convention on Human Rights](#). For example, legislation passed by the Scottish Parliament is not law if it is incompatible with these "Convention rights". The powers of Scottish Ministers are also subject to important limitations. More generally, it is unlawful for any public authority, including both central and local government, to act in a way that is incompatible with the Convention rights. It is therefore important that all public bodies and practitioners ensure that they carry out their functions in a way that is European Convention on Human Rights-compatible.

Additionally, the Scottish Government has committed to incorporate four United Nations treaties into Scots law, as far as possible within devolved competence, including the [United Nations Convention on the Rights of Persons with Disabilities](#). This Convention promotes non-discriminatory, inclusive participation for all, with respect for the individual's dignity and differences, reinforcing equal rights of people with disabilities. Incorporation will place greater impetus on public bodies to remove barriers and support disabled people to fully participate in society.

## Chapter 3: Values

- 3.1 All Adults at Risk of harm have a right, and should be enabled to achieve that right, to live and receive services in an environment which is free from prejudice and safe from harm.
- 3.2 Where it is suspected that an adult has been harmed all agencies will work co-operatively to provide a service which:

### **Is Prompt**

And at a pace of delivery in accordance with the timescales in these inter-agency procedures which ensures the immediate and ongoing health and safety of the adult in need of support and protection.

### **Is Sensitive**

To the adult in need of support and protection and his/her representatives/carers and to staff.

### **Is Participative**

Seeks the views of the adult, offers advocacy and support to enable the adult to fully participate in any adult support and protection processes.

### **Is Effective**

In providing solutions which are as simple and practical as possible and aimed to prevent the risk of harm recurring. Solutions are based on holistic risk assessments and risk management.

### **Is Balanced**

Agencies must exercise responsibilities and duties appropriately, and ensure that all intervention in people's lives, those harmed, their family, and staff, is justified, with the reasons being fully documented (recorded).

### **Is Aware**

And does not discriminate against a person because of their religious and cultural beliefs, age, disability, gender, race or sexuality.

- 3.3 The values noted above will guide all adult support and protection processes and interaction with adults at risk and their families and carers. They are based on the principles outlined in the Adult Support and Protection (Scotland) Act 2007.

## Chapter 4: Definition of an Adult at Risk

### 4.1 **Adults at Risk** are adults who:

- a) Are unable to safeguard their own well-being, property, rights or other interests;
- b) Are at risk of harm; and
- c) 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. (This can be referred to as the Three-Point Criteria – [see 4.5 below](#))

An Adult is defined as a person aged 16 or over.

4.1.1 However, it must be noted here that, under the Children and Young People (Scotland) Act 2014, a 'child' is defined, as someone who has not yet attained the age of 18. As a result, for clarity in respect of protection, an individual young person's circumstances and age will dictate what legal protections are available. For example, the Adult Support and Protection (Scotland) Act 2007 can be applied to over-16s when the criteria are met. Where a young person between the age of 16 and 18 requires support and protection, services will need to consider which legal framework best fits each Individual's needs and circumstances.

4.1.2 In Shetland, Shetland Public Protection Committee and Shetland Islands Council's Children's Services have agreed that:

- Any child or young person who is, or may be, at risk of significant harm, up to the age of 18, should be referred to Children's Duty Social Work using Child Protection Procedures;
- Any young person who is over the age of 18, but who is still on a school roll (for some young people with additional support needs this can be up to their 19<sup>th</sup> birthday) who is, or may be, at risk of significant harm should be referred to Children's Duty Social Work;
- Any young person over the age of 18 who is at risk and has left school and is no longer on a school roll should be referred under Adult Protection Procedures to Adult Duty Social Work.
- Any young person who is Care Experienced and who is receiving support from the Through Care and After Care Team, should be referred in the first instance, to Children's Duty Social Work.

4.2 **Harm** includes all harmful conduct and, in particular, includes:

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

conduct which causes self-harm.

- 4.3 An Adult is at **risk of harm** if:
- a) another person's conduct is causing (or is likely to cause) the adult to be harmed; or
  - b) the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

**NB: "Conduct" includes self-neglect and other failures to act.**

- 4.4 The definition of "harm" in the Act sets out the main broad categories of harm that are included. The list in the definition is not exhaustive and no category of harm is excluded simply because it is not explicitly listed. In general terms, behaviours that constitute 'harm' to a person can be physical, sexual, psychological, financial, electronic or a combination of these. The harm can be accidental or intentional, as a result of self-neglect or neglect by a carer or caused by self-harm and/or attempted suicide. Domestic abuse, gender based violence, forced marriage, human trafficking, stalking, hate crime and 'mate crime' (one friend or acquaintance harming another) are also types of harm that could place an adult at risk.

#### 4.5 The Three-Point Criteria

**The presence of a particular condition does not automatically mean that an adult is an "Adult at Risk".**

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

#### 4.6 Unable to safeguard or unwilling to safeguard

The first point of the three-point criteria set out in section 3(1) of the Act relates to whether the adult is unable to safeguard their own well-being, property, rights or other interests. Most people will be able to safeguard themselves through the ability to take clear and well thought through decisions about matters to do with their health and safety, and as such could not be regarded as adults at risk of harm within the terms of the Act.

However, this will not be the case for all people, and when a person is deemed unable to safeguard themselves they will meet the first point of the three-point criteria.

- 'Unable' is not further defined in the Act, but is defined in [the Collins English Dictionary](#) as "lacking the necessary power, ability, or authority (to do something); not able".
- 'Unwilling' is defined in the [Collins English Dictionary](#) as "unfavourably inclined; reluctant", and may thus describe someone who is aware of the potential consequences but still makes a deliberate choice.

A distinction may therefore be drawn between an adult who lacks these skills and is therefore unable to safeguard themselves, and one who is deemed to have the power, ability or authority to safeguard themselves, but who is apparently unwilling to do so.

Note: An adult who is considered unwilling to safeguard themselves, rather than unable to safeguard themselves, may not be considered an adult at risk- but see below information about the effect of long term trauma on adults' ability to protect themselves.

- 4.7 **This distinction requires careful consideration.** All adults who have capacity have the right to make their own choices about their lives and these choices should be respected if they are made freely. However, for many people the effects of **trauma and/or adverse childhood experiences** may impact upon both their ability to make and action decisions, and the type of choices they appear to make. In this context it is reasonable to envisage situations in which these experiences, and the cumulative impact of them through life, may very well have rendered some people effectively **unable**, through reliable decision making or action, to safeguard themselves.
- 4.8 Similar considerations apply to **coercive control or undue pressure**. In such situations the control exercised over a vulnerable person may also effectively render them **unable** to take or action decisions that would protect them from harm.

It is therefore important, as part of the assessment, to understand the person's decision-making processes. This should include an understanding of any factors which may have impacted upon them with the effect of impinging on, or detracting from, their ability to make and action, free and informed decisions to safeguard themselves. This could therefore mean that in these circumstances they should be regarded as unable to safeguard themselves.

Other circumstances can impact on the extent to which a person is meaningfully able to safeguard themselves. Refusing to give a random stranger money is, for example, very far removed from the situation where it is the person's relative who is making such a request, and where the adult is dependent upon that relative for support. For fear of repercussions or removal of support, they may feel afraid of refusing the request.

- 4.9 It is also important to bear in mind that an inability to safeguard oneself is **not the same as an adult lacking mental capacity**. For example a person may have relevant mental capacity, but also have physical limitations that restrict their ability to implement actions to safeguard themselves. Capacity applies to both decision making and the implementation of decisions. A person can have the capacity to make a particular decision but through illness or infirmity may not have the physical capacity to implement that decision.  
**Thus, in all circumstances, one should consider that even where a person can make a decision, are they able to action that decision to safeguard themselves?**

4.10 The examples offered above demonstrate that practitioners must take a person's overall circumstances into account, and take great care, before determining whether or not an adult is genuinely able to take and implement decisions about safeguarding themselves.

4.11 **Being more vulnerable to harm**

The third criteria point requires that because the adult is affected by disability, mental disorder, illness, or physical or mental infirmity they are more vulnerable to being harmed than adults who are not so affected. Physical or mental infirmity are distinct from disability and mental disorder, and are not defined in the Act. Infirmity is defined as a "[physical or mental weakness](#)". Infirmity does not, therefore, necessarily rely upon a medical diagnosis in the way that mental disorder or illness do.

4.12 **Trauma**

The majority of adults who are, or are believed to be, at risk of harm will be people for whom the application of the three-point criteria will be relatively straightforward. This will lead to consideration of options for intervention whether under the provisions of the Act and/or other relevant legislation.

As mentioned in the "unable or unwilling" section above there are, however, a number of people for whom straightforward application of the three-point criteria is not possible, and some may remain in situations which continue to compromise their health, wellbeing and safety. All adults who have capacity have the right to make their own choices about their lives, and these choices should be respected if they are made freely. Many people affected by trauma and adverse childhood experiences remain able to safeguard their own wellbeing. However, for some, the complexity, severity and persistence of post traumatic reactions may impact to the extent that these individuals repeatedly take decisions that place them at risk of harm.

4.13 Equally, issues with their sense of self and interpersonal relationships, seriously affecting all or many of their relationships across many areas of life, can severely compromise their ability to safeguard. These safeguarding challenges can be associated with patterns of chronic difficulties in experience of emotions, emotional expression and/or regulation, and associated coping strategies such as self-harm, care-seeking and use/misuse of alcohol and drugs.

As part of an assessment – which may require significant time to undertake – it is crucial to understand the person's decision-making processes. Consideration should be given to any factors that may have impacted upon the adult with the effect of impinging on, or detracting from, their ability to make free and informed decisions to safeguard themselves. This could therefore mean that, in some circumstances, they should be regarded as unable to safeguard themselves.

4.14 **Trauma informed practice** is an approach to care provision that considers the impact of trauma exposure on an individual's biological, psychological and social development. Delivering services in a trauma informed way means understanding that individuals may have a history of traumatic experiences which may impact on their ability to feel safe and develop trusting relationships with services and professionals.

4.15 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

4.16 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. Examples of such adaptations can include: maintaining contact with an alleged harmer; use of drugs or alcohol; self-harm; hoarding, and avoidance of places and people, including professional relationships and services, which may trigger reminders of prior traumatic experiences. As above, in these circumstances, some people's ability to take and action decisions about safeguarding themselves may effectively be compromised.

4.17 **Substance dependency, homelessness and hoarding**

The concept of "executive capacity" is relevant where the individual has addictive or compulsive behaviours. This highlights the importance of considering the individual's ability to put a decision to safeguard themselves into effect (executive capacity) in addition to their ability to make a decision (decisional capacity). Thus, for such a person an assessment of mental capacity would rarely be as simple as "yes" or "no." [Read more about substance dependency/use in Chapter 5.](#)

4.18 The 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 under the Act. It may also be that the impact of a person's dependency renders them subject to physical or mental infirmity, and places them at risk of harm.

It is **essential** to move from a position of looking at substance dependency in isolation and, instead, to see it in terms of **relational causation and connection**, i.e. a shift from the view that dependency causes self-neglect, to one that understands such dependency as an outward symptom or sign of deeper challenges and of self-neglect itself. As above, considerations of the impact of trauma on the individual's ability to safeguard should be a thread throughout adult support and protection activity.

## 4.19 16-18 Year Olds – Adult and Child Protection Referrals

### Young People over the age of 16

Under the Children and Young People (Scotland) Act 2014, a 'child' is defined, for the purposes of all Parts of that Act, as someone who has not yet attained the age of 18. The individual young person's circumstances and age will dictate what legal protections are available. For example, the Adult Support and Protection (Scotland) Act 2007 can be applied to over-16s when the criteria are met. Where a young person between the age of 16 and 18 requires support and protection, services will need to consider which legal framework best fits each persons' needs and circumstances.

Shetland Public Protection Committee has decided that:

- Any child or young person who is, or may be, at risk of significant harm up to the age of 18, should be referred to Children Duty Social Work following the Shetland Interagency Child Protection Procedures.
- Any young person who is over the age of 18, but who is still on a school roll (and for some young people with additional support needs that can be up to their 19<sup>th</sup> birthday) who is, or may be, at risk of significant harm should be referred to Children's Duty Social Work;
- Any young person over the age of 18 who is at risk and has left school and is no longer on a school roll should be referred under Adult Support and Protection Procedures to Adult Duty Social Work if it is assessed they may be at risk and may meet the three-point criteria.
- Any young person who is Care Experienced and who is receiving support from the Through Care and After Care Team should be referred in the first instance to Children Duty Social Work.

For young people aged 16-18(or beyond their 18<sup>th</sup> birthday) who are still in education Children's Services, Quality Improvement Service will provide a Named Person. For young people who have left school and who have not been Looked After, Shetland Islands Council Children's Services, Central Inclusion Team will provide a Named Person. For any young person who was Looked After on their 16<sup>th</sup> birthday and is entitled to a Through Care and After Care Service, that service will provide a Named Person.

It is possible for a young person to remain on a Compulsory Supervision Order under the Children's Hearing Act (Scotland) 2011 up to the age of 18, if they are already subject to such an order on their 16<sup>th</sup> birthday. This means that they are "Looked After" and the local authority has a responsibility for their care and welfare up to the age of 26. A young person who is subject to a Compulsory Supervision Order is classed as a child for the purposes of the remedies available under the 2011 Act or the Children (Scotland) Act 1995 Act. A Compulsory Supervision Order is part of the Child Protection Framework, and it would unnecessarily complicate matters to deal with a young person who is already being dealt with under this framework under the

Adult Support and Protection Procedures. However, it should be noted, that the remedies available under the Adult Support and Protection Framework, such as a Banning Order, would be available to protect such a young person. This is a legally complex area, and staff should seek advice from the Children's Duty Social Work who can consult with Shetland Islands Council's Legal Services, if required.

## **Chapter 5: Recognising Abuse and Harmful Behaviour Towards an Adult**

- 5.1 There are a number of signs which may indicate that an adult may have been harmed or neglected.

When providing information about possible signs of harm it is important to remember:

- Any list of signs can never be completely definitive or exhaustive;
  - There may be alternative explanations for any signs of harm and there could be a number of possible causes. The existence of one or more symptoms does not necessarily indicate harm;
  - The following information should be looked at in the context of the adult's whole situation, and in combination with a range of other information related to the adult's circumstances.
- 5.2 It is reasonable to expect carers and family members and professionals to be seriously concerned by the appearance of any of the following indicators of harm either singly or in combination. **However, assumptions cannot be made on the basis of checklists, and it is essential to make objective assessments at all times.**
- 5.3 Good practice would always be to seek advice and guidance by contacting Adult Duty Social Work if you have any concern about an adult's welfare or safety. The following gives some information about possible indicators of harm – physical abuse, sexual, psychological and emotional harm, or neglect. There can be an overlap between all the different forms of harm and all or some can co-exist. Harm, including sexual harm, can be perpetrated by both males and females.
- 5.4 **Physical Abuse** involving actual or attempted injury to an adult defined at risk e.g.
- Physical assault caused by punching, pushing, slapping, tying down, giving food or medication forcibly, denial of medication
  - Use of medication other than as prescribed
  - Inappropriate restraint

### **Bruises**

- Bruised eyes are particularly suspicious if, both eyes are bruised, (most accidents cause only one) there is no bruise to the forehead or nose or suspicion of skull fracture (bruised eyes can be caused by blood seeping down from an injury above)
- Bruising in or around the mouth
- Grasps marks on arms, chest or shoulders
- Finger marks (e.g. you may see three or four bruises on one side of the face and one on the other)
- Symmetrical bruising (especially on the ears)
- Outline bruising (e.g. belt marks, hand prints)

- Linear bruising (particularly on the buttocks or back)
- Bruising on soft tissue with no obvious explanation
- Different age bruising (especially in the same area)
- Abrasions, especially around wrists and /or ankles

*NB – Most falls or accidents produce one bruise on an area of the body - usually on a bony protuberance. An adult who falls downstairs generally has only one or two bruises. Bruising in accidents is usually on the front of the body as most people generally fall forwards. In addition, there may be marks on the adult's hands if they have tried to break their fall.*

The following are uncommon areas for accidental bruising, back of legs, buttocks (except, occasionally, along the bony protuberance of the spine), neck, mouth, cheeks, behind the ear, stomach, chest, underarm, genital and rectal area. Injuries in any of these areas of the body would require a discussion with Adult Social Work and a medical examination.

### **Bites**

These can leave clear impressions of the teeth.

### **Burns and Scalds**

It can be very difficult to distinguish between accidental and non-accidental burns. Generally speaking, with modern safeguards and different living arrangements there are fewer accidental burns than there were in the past - e.g. fewer coal/peat fires, fewer people smoking, modern hot water systems regulate temperatures, safer cookers and electric kettles. As a general rule burns or scalds with clear outlines are suspicious so are burns of uniform depth over a large area, also splash marks about the main burn area (caused by hot liquid being thrown).

*NB – Concerns should be raised where a carer responsible for an Adult at Risk of harm has not checked the temperature of the bath.*

### **Scars**

Many adults have scars, but notice should be taken of exceptionally large numbers of differing aged scars (especially if coupled with current bruising), unusually shaped scars e.g. round ones from possible cigarette burns or large scars from burns or lacerations which did not receive medical treatment.

### **Fractures**

Fractures should be suspected if there is pain, swelling, and discolouration over a bone or a joint. The most common non accidental fractures are the long bones i.e. arms, legs, ribs.

## **5.5 Emotional/Psychological Harm** – resulting in mental distress to the Adult at Risk e.g.

- Excessive shouting, bullying, humiliation
- Manipulation or the prevention of access to services that would enhance life experience

- Isolation or sensory deprivation
- Denigration of culture or religion

The following indicators should be considered by workers when concerns regarding emotional harm arise. In some situations the following will be applicable

- Carers' behaviour
- Carers' history – mental health, substance misuse, relationship with adult
- Pressure exerted by family or professional to have someone admitted to residential care
- Weight change- loss of appetite or overeating
- Loss of confidence
- Extreme submissiveness or dependence in contrast with known capacity
- Demonstration of fear of another person by the vulnerable adult
- Sudden changes in behaviour in the presence of certain persons
- Rejection
- Denigration
- Scapegoating
- Denial of opportunities for appropriate socialisation Isolation from normal social experiences, preventing the Adult at Risk from forming friendships
- Under stimulation
- Sensory deprivation
- Marked difference in material provision in relation to others in the household
- Unrealistic expectations of the vulnerable adult
- Asking for an Adult at Risk to be removed from home, or indicating difficulties in coping with an Adult at Risk, about whose care there are already doubts
- Fear of carers
- Refusal to speak
- Severe hostility/aggression towards other adults

## 5.6 **Financial Harm**

Financial harm takes many forms including theft, fraud (e.g. doorstep scammers, scamming by post, over the phone, online or through a combination of these methods), pressure to hand or sign over property or money, misuse of property or welfare benefits, stopping someone getting their money or possessions. When considering whether financial harm is occurring, it is helpful to consider a person's past behaviours and views as this may offer insight to their current behaviours, and highlight changes. Not all people subject to financial harm will be regarded as Adults at Risk, but the Act can be used to protect those people who are so regarded. In such cases, the potential for coercive control should be considered by practitioners.

- 5.7 In cases where there may be a misuse of proxy powers (Power of Attorney or Financial Guardianship), in addition to any immediate matters that they may be addressing, practitioners should be alert to the need to refer matters with a financial element to the [Office of the Public Guardian \(Scotland\)](#) for

investigation. The Office of the Public Guardian should be notified even if harm by the proxy was unintentional, and the risk was mitigated through actions taken by the proxy and/or via adult protection processes or intervention. This expectation applies to cases of financial guardianship and intervention, due to the Office of the Public Guardian's supervisory role over financial guardians and interveners.

If an alleged harmer has financial decision-making powers for more than one person, consideration should be given to possible financial harm risks to others. This could be in the alleged harmer's role as attorney, guardian, intervener, Department of Work and Pensions appointee, or withdrawer as per the Access to Funds scheme within the Adults with Incapacity (Scotland) Act 2000.

5.8 **Financial or Material Harm** – The following outlines some of the signs that an adult may be financially harmed.

- Important documents are reported to be missing.
- Unexplained or sudden withdrawal of money from accounts.
- Contradiction between known income and capital and unnecessarily poor living conditions especially where this has developed recently.
- Personal possessions or valuables going missing from the home without satisfactory explanation.
- Someone has taken responsibility for paying rent, bills, buying food or other items – but this is not happening.
- Unusual interest taken by relative, friend, neighbour or other in financial assets, especially if little real concern shown in other matters.
- Next of kin refuses to follow advice regarding control of property via continuing/welfare power of attorney.
- Where care services, including residential care, are refused under clear pressure from potential inheritors.
- Unusual purchases unrelated to the known interests of the Adult at Risk.
- Abuse of power by the person with a Power of Attorney.
- Organised financial scams which are deliberately targeted through post, phone or e mail at people who are perceived to be vulnerable to this approach or who have been scammed previously. Large quantities of unsolicited mail and phone calls may be a sign that this is happening.

- Bogus or rogue trades people who fail to complete work or overcharge or who do substandard work.
- Financial loan companies who contract a loan agreement with people who do not have the capacity to understand the implications of a loan agreement.
- “Cuckooing” this is when an individual causes harm to an Adult at Risk by moving into their property, using their resources and money and possibly conducting illegal activities from the adult’s home (for e.g. drug dealing). The adult can be groomed, persuaded, forced or frightened into letting the person use their home or they may be lonely or feel sorry for the individual. [See Appendix 4 - Protocol for Adult Support and Protection Risk and Concern Hub](#)
- Adults at risk can be placed under duress to rewrite wills or sign over goods property or money.
- Volumes of unsolicited mail, phone calls, texts, e-mails.
- New standing orders or direct debits set up by the adult.

For further information and helpful links to other organisations, please see the ‘For Everyone’ section of the Adult Protection part of the Safer Shetland website: <http://www.safershetland.com/for-everyone>

5.9 **Sexual Harm** – This is activity of a sexual nature where the Adult at Risk cannot or does not give consent. Consent is defined in the [Sexual Offences \(Scotland\) Act 2009](#) as “free agreement”. Sexual harm would include:

- Incest
- Rape
- Acts of gross indecency

Sexual Harm can occur when Adults at Risk of harm are involved in sexual relationships or activities which they have not consented to or are pressured into consenting to or they cannot understand.

Such activities could include unwanted sexual contact such as rape or incest, inappropriate touching including sexual harassment either verbal or physical, indecent exposure, displaying pornographic material, inappropriate sexual material or online sexual activity intended for the gratification of another person.

The following give some general indicators that may be related to sexual harm, but care should always be taken not to assume that they definitely indicate that an adult has been harmed in this way. They are causes for concern in themselves and may require further assessment and help:

- Adult aversion to being touched
- Tendency to withdraw and spend time in isolation
- Deliberate self-harm
- Depression and withdrawal
- Wetting or soiling, day or night
- Sleep disturbances or nightmares
- Anorexia or bulimia
- Phobias or panic attacks
- Any of the above noted as a change in behaviour
- Dysregulated sexual behaviour which may be as a result of dementia ( this would require medical assessment and potentially could be a risk to others)

**The following are more specific indicators:**

- Injuries in genital area
- Infections or abnormal discharge in the genital area
- Complaints of genital itching or pain
- Presence of sexually transmitted diseases/pregnancy
- Excessive washing
- Disclosure by the adult of an experience of sexual harm

**5.10 Neglect and acts of omissions by others charged with care of Adult at Risk – including ignoring medical or physical care needs**

- Failure to provide access to appropriate health or social care or educational services.
- Withholding of the necessities of life such as nutrition, clothing, appropriate heating.

The following indicators, singly or in combination, should alert workers to the possibility that the Adult at Risk needs are being neglected:

- circulation disorders
- pressure sores – particularly if they are avoidable or untreated
- unhygienic home conditions
- supervision that is inappropriate for the adult's care needs provided by a carer which exposes the adult to risk
- carer with substance misuse problems who is not providing appropriate care and supervision
- Failure to seek appropriate medical attention
- A delay or failure in seeking medical treatment which is obviously needed
- An Adult at Risk is found at home or in a care setting in a situation of serious but avoidable risk
- Unnecessary delay in a member of staff or a carer responding to the adult's request for help or their care needs
- Serious or persistent failure to meet the needs of the Adult at Risk
- Non-attendance at social care or support service
- Carer's own health and vulnerabilities affecting their ability to provide appropriate care

Neglect can also include:

- Medication Misuse
- Unexplained drowsiness/over sedation
- Sudden change in relation to a long term condition
- Inappropriate use of over the counter medication
- Dietary Misuse
- Unexplained weight loss/weight gain

### 5.11 **Multiple forms of Harm**

This may occur in an ongoing relationship or service setting or to more than one person at a time. It is important therefore to look beyond single incidents and consider underlying dynamics and patterns of harm. For example a perpetrator targeting more than one Adult at Risk in the community.

### 5.12 **Random Violence**

An attack by a stranger on an adult defined as being at risk is an assault, a criminal matter, and should be reported to the Police. However where there is the possibility that the violence may be part of a pattern of victimisation in a community or neighbourhood, Adult Protection Procedures may apply in respect of effective multi-agency intervention.

### 5.13 **Domestic Abuse and Gender Based Violence (additional Guidance is in Appendix 10 – Gender Based Violence Protocol)**

Domestic abuse is a pattern of controlling, coercive, threatening, degrading and/or violent behaviour, including sexual violence, by a partner or ex-partner. Statistically, domestic abuse is overwhelmingly experienced by women and perpetrated by men. However men can also find themselves in abusive situations.

Often when people think of domestic abuse they think of physical violence, but domestic abuse includes coercive control, psychological, emotional and financial harm. For many women and men who live with domestic abuse there will be no scars, bruises or broken bones, but for some it can take their life. No one kind of abuse is more serious than any other.

Abusive behaviour is defined in the [Domestic Abuse \(Scotland\) Act 2018](#) as behaviour exhibited by one partner or ex-partner towards another partner or ex-partner. The abusive behaviour is described as behaviour which is:

- Violent, threatening or intimidating
- Making the partner or ex-partner dependent or subordinate
- Isolating from friends, relations and other sources of support
- Controlling, regulating or monitoring freedom of action
- Depriving or restricting freedom of action
- Frightening, humiliating, degrading or punishing

These behaviours are often referred to as coercive control. The damaging and harmful effects on children are also recognised in the legislation. Such behaviour can be a criminal offence. The legislation is not gender specific and it is recognised that, although statistically most abuse is directed at women, men can also be harmed.

Most adults who experience domestic abuse or gender based violence will not meet the Three Point Criteria however anyone can seek advice and help about domestic abuse (<http://www.safershetland.com/domestic-abuse> ).

Gender based violence which includes female genital mutilation, forced marriage, honour based violence, rape and sexual assault can result in very high risk situations for women and girls. These are offences and any indications that adults, or children, have been harmed in this way should be discussed with Police Scotland. The Scottish Government has issued the following guidance for healthcare professionals regarding female genital mutilation: [http://www.sehd.scot.nhs.uk/cmo/CMO\(2016\)05.pdf](http://www.sehd.scot.nhs.uk/cmo/CMO(2016)05.pdf)

Adults with a learning disability, substance misuse problems or mental illness can be very vulnerable to exploitative or abusive relationships. Some adults may have lived with domestic abuse for many years and it is only when outside agencies are providing care and support that this may become apparent to others outside the immediate family.

### **Multi-Agency Risk Assessment Conference**

Multi-Agency Risk Assessment Conference is a UK wide process developed by SafeLives [Marac in Scotland | Safelives](#) which allows for a comprehensive risk assessment to be completed which identifies that people are at high risk of serious harm from gender based violence and domestic abuse. A referral to the Multi-Agency Risk Assessment Conference coordinator can be made without consent of the victim or the perpetrator, which will then be discussed at an interagency Multi-Agency Risk Assessment Conference. The Conference will draw up a safety plan and offer support to the victim. An advocate for the victim will attend the Multi-Agency Risk Assessment Conference.

Adults at Risk of Harm who meet the Three Point Criteria may be at increased risk, and advice and guidance about referral to Multi-Agency Risk Assessment Conference can be sought from Duty Social Work, Police Scotland or Shetland Women's Aid.

#### **5.14 Discriminatory Harm**

Adults with a range of physical and mental problems can be discriminated against to the extent that their right to live as they choose free from harm is seriously affected. Adults can be discriminated against due to disability,

race, gender, religion, transgender identity or sexuality. Discrimination can be a hate crime and consideration about reporting any such behaviour to the Police is important as well as using adult protection processes to protect the adult.

In March 2023, the Scottish Government published its strategy to tackle Hate Crime. It provides up-to-date information on Hate Crime in Scotland and also has links to relevant resources: [www.gov.scot/publications/hate-crime-strategy-scotland](http://www.gov.scot/publications/hate-crime-strategy-scotland)

Care services have a duty to respect service user's culture, sexuality, identity and religion and failure to do so can also amount to discriminatory harm.

### 5.15 **Organisational Harm**

An adult can be at risk of harm in a variety of settings that should promote their care and welfare- hospitals, care homes and day care services.

The following report "Identifying and Applying Early Indicators of Concern in Care Services for People with Learning Disabilities and Older People" [www.gov.scot/Resource/0044/00443002.pdf](http://www.gov.scot/Resource/0044/00443002.pdf) identified the following commonly occurring areas of concern:

- Concerns about leadership and management;
- Concerns about staff skills, knowledge and practice;
- Concerns about residents' behaviour and wellbeing;
- Concerns about the service resisting the involvement of external people and isolating individuals;
- Concerns about the ways that services are planned and delivered;
- Concerns about the quality of basic care and the environment.

When a referral is received about an Adult at Risk potentially being harmed within a care setting or by staff working in the community then these adult protection procedures must be followed. Where there may be a potential systemic failure in the delivery of care services to adults, there is a legal duty for Shetland Islands Council through Adult Social Work to make inquiries. These inquiries should consider whether there is potential that other adults are also experiencing harm or are at risk of harm.

The Stepwise guide in these procedures should be followed and consideration given to the requirement to begin a Large scale investigation [see Appendix 7](#). Further information about managing allegations against staff are in [Appendix 2](#).

### 5.16 **Raising Concerns at Work**

If any person, employed by or working in a voluntary capacity, for any organisation in Shetland has concerns about the care and support being provided to a service user then using their own organisations method for raising concerns at work should be followed. Both Shetland Islands Council

and NHS Shetland have raising concern at work policies in place. This can be difficult – especially when the behaviour of colleagues or managers is affecting the quality of care provided. Ultimately the safety of service users has to be the paramount consideration. General advice and guidance about whistle blowing can be found at: [www.gov.scot/Publications/2011/12/06141807/4](http://www.gov.scot/Publications/2011/12/06141807/4).

NHS Scotland has developed a whistleblowing website and support for staff [Whistleblowing Policy Overview | NHSScotland](#)

#### 5.17 **Links to Child Protection**

If concerns are raised about at Adult at Risk who has childcare responsibilities or contact with children then consideration must be given to the child's safety and wellbeing. It is also important to consider if the person responsible for harming an adult may also be a risk to children and young people. Experience shows that there have been a number of situations in Shetland where perpetrators have posed a risk to children as well as adults. [Shetland's Inter-Agency Child Protection Procedures](#) must be followed to address these concerns.

Advice can be sought from the Duty Children's Social Work (Tel: 01595 744420 - Mon-Fri 9-5am), and in urgent situations from the Out of Hours Duty Social Work Service (Tel: 01595 695611), and if necessary, a Child Protection Referral can be made.

#### 5.18 **Links to Duties Under the 2015 Counter Terrorism Act-Prevent Strategy**

The Counter Terrorism and Security Act 2015 places a duty on local authorities and partner agencies to prevent people from being drawn into terrorism. The "Prevent Duty Guidance for Scotland" has been prepared to assist agencies to put this into practice. Staff have a duty to be aware of situations where people may become radicalised and to stop people becoming terrorists or supporting terrorism. There are threats posed to the UK by terrorism based in the Middle East, but also Northern Ireland and other extremist groups (for example far right wing or racist groups). People can be groomed and influenced and this process is very similar to the way in which grooming can take place for other purposes. There may be some adults who, due to having a learning disability or mental health problem, may be targeted and vulnerable to radicalisation. This can take place online or in the real world. Becoming involved in such activity can be a clear risk to the adult as well as a potential risk to others.

Workshops to Raise Awareness of Prevent (WRAP training) and e-learning courses on Shetland Islands Council and NHS Shetland systems should be completed by all staff to comply with legal duties under the Act. There can be a risk of significant harm and so staff who have concerns about an adult who may be being drawn into such activity should:

- Contact the police immediately;
- If the adult is vulnerable and being exploited make an Adult Protection Referral to Duty Social Work or relevant allocated social worker.

There is a Single Point of Contact for Prevent in each local authority. Currently that role is held by the Executive Manager, Children's Social Work. They should be notified if a concern about radicalisation is raised through Adult Protection or any other process. Following an initial inter-agency discussion a plan will be formulated to assist the adult. In some cases it may be appropriate to hold a Prevent Professional Concern Case Conference which will be chaired by the Improvement Reviewing Officer and follow appropriate Prevent Procedures.

Web link to PREVENT Guidance for Scotland:

<https://www.gov.uk/government/publications/prevent-duty-guidance-england-scotland-and-wales-2015/revised-prevent-duty-guidance-for-scotland-2015>

## 5.19 **Human Trafficking and Modern Slavery**

Trafficking can involve victims being sexually exploited or forced into the role of a servant, or trapped in forced labour. Examples in Scotland of potential cases have been in nail bars, car washes and construction. Trafficking and modern slavery is not confined to people brought illegally into the UK, but involves the movement of any person for the purposes of exploitation. There have been instances in Scotland where more vulnerable adults who were homeless, had mental health problems, substance dependency or learning difficulties were exploited and coerced, sometimes into criminal behaviour.

Human trafficking, exploitation and slavery are illegal in Scotland and the UK and there is a duty to report to Police Scotland any concerns that an individual is being trafficked or exploited.

More information about Human Trafficking in Scotland can be found at:

[www.gov.scot/policies/human-trafficking](http://www.gov.scot/policies/human-trafficking)

## 5.20 **Self-Neglect and Self-Harm**

### 5.20.1 **Self-neglect**

Self-neglect is the inability, intentional or unintentional, to maintain a socially and culturally accepted standard of self-care with the potential for serious consequences to the health and wellbeing of the adult. Self-neglect can include neglect of bodily needs for food, cleanliness, warmth and medical care. Self-neglect can include neglecting to care for one's home and surroundings.

**Hoarding** can result in self-neglect. Hoarding is the excessive collection and retention of any materials to the extent that it impedes day to day functioning. It can include "hoarding" animals. Self-neglect and hoarding are often linked to experiences of trauma and significant mental health problems.

It is characterised by:

- Acquiring and failing to throw out a large number of items
- Severe cluttering of the adult's home so that it is no longer able to function as a viable living space
- Significant distress or impairment of worth around life

More information about hoarding can be found at: [www.nhs.uk/mental-health/conditions/hoarding-disorder](http://www.nhs.uk/mental-health/conditions/hoarding-disorder). Iriss have also recently published an excellent overview document on Self-Neglect. It can be found at: [www.iriss.org.uk/sites/default/files/2022-08/esss\\_outline\\_an\\_overview\\_of\\_self-neglect\\_2022.pdf](http://www.iriss.org.uk/sites/default/files/2022-08/esss_outline_an_overview_of_self-neglect_2022.pdf)

Consultation with Shetland Islands Council Environmental Health Service can assist when assessing serious situations where hoarding or serious self-neglect are an issue [Environmental Health – Shetland Islands Council](#)

### 5.20.2 Self-Harm

Self-harm is when someone damages or injures their body on purpose, including taking an overdose of medication or other substances. Self-harm is defined as intentional self-poisoning or injury irrespective of the apparent purpose of the act and is an expression of emotional distress. The majority of self-poisoning episodes involve prescribed or over-the-counter medication, and a minority involve illicit drugs, other household substances, or plant material. The majority of self-injury episodes involve cutting.

Self-harm can be linked to mental illness, learning disability, autistic spectrum disorder, experiences of trauma and abuse either recent or in the past. Overall, self-harm is associated with an elevated suicide risk. However, the relationship between suicide and self-harm is complex, with some people who self-harm viewing it as an act of 'self-preservation' as it helps them to release intense emotions and express externally the emotional pain they are feeling internally. It has also been noted that while suicide may not be intended when a person begins to self-harm, suicidal intention may develop over time.

Studies have identified that the risk of suicide may be particularly increased in people who self-harm who:

- Are male;
- Repeatedly self-harm;
- Also have physical health problems;
- Express suicidal intent.

Any concerns that an adult is placing themselves at risk through self-harm should prompt staff to seek advice and support from line managers and also seek medical help for immediate injuries and medical assessment of the adult's mental wellbeing. Further information and guidance is available from the National Institute of Clinical Excellence for Health and Care (NICE)

[Overview](#) | [Self-harm: assessment, management and preventing recurrence](#) | [Guidance](#) | [NICE](#)

## 5.21 **Substance Dependency/Use**

High risk alcohol use and problematic drug use are significant issues in Scotland, causing damage to people's lives, families and communities, and contributing to violence and crime. Alcohol or drug dependency have tended to be seen as a personal choice and that adults who use substances would not meet the Three Point Criteria and would not fall under Adult Support and Protection legislation. Whilst it is true that many adults with capacity who use substances may be making choices, some will reach a point where substance use is not a choice, but a necessity.

Substance use is linked with experiences of trauma, mental health and wellbeing issues and loss and can start as form of self-medication and a way to cope. Ageing could possibly lead to social and physical changes which may increase vulnerability to substance misuse. Little is known about the effects of drugs and alcohol on the ageing brain. However, older adults typically metabolise substances more slowly, and their brains can be more sensitive to drugs. Older adults may be more likely to experience mood disorders, lung and heart problems, or memory issues. Drugs can worsen these conditions, exacerbating the negative health consequences of substance use. Additionally, the effects of some drugs like impaired judgment, coordination, or reaction time can result in accidents, such as falls and car crashes.

Chronic health conditions tend to develop as part of ageing, and older adults are often prescribed more medicines than other age groups, leading to a higher rate of exposure to potentially addictive medications. Other risks could include accidental misuse of prescription drugs, and possible worsening of existing mental health issues.

It has been recognised that assessing the whole situation of an adult who is using substances (and may have been doing so for many years) needs to consider if the adult is an Adult at Risk and if benefit to the adult could result from using Adult Protection processes. Anyone concerned about an adult's substance use and the risk it places them at can seek advice from or refer to Duty Social Work under these Procedures.

## **Chapter 6: Stepwise Guide for Adult Protection Procedures**

### **Step by Step Guide – The “Four Referral R’s**

Everyone should be able to:

**Recognise** – be aware of Adult Protection issues and how an Adult at Risk of harm may present. Consider trauma, undue pressure etc., and the adult's ability to safeguard themselves.

**Report** – where you have an internal adviser for Adult Protection, report the matter to them. Discuss with appropriate colleagues the need to make a referral *but* ensure this does not adversely delay referring.

**Refer** – Refer the individual and their circumstances through your local Adult Protection referral process. Where the matter is urgent contact the relevant emergency services without delay.

**Record** – use the individual's record to note the issues which arose, the circumstances, the decisions made/actions you took, and the rationale for your actions.

**If the matter is urgent** i.e there is imminent risk of danger, or significant harm has happened please contact the relevant Emergency Service – Police/Fire/Ambulance.

## STEP 1 – Recognising

6.1 **Person Responsible** – These guidelines should be followed by anyone who witnesses, suspects or receives information about an adult who is, or may be, at risk of harm.

### 6.2 **Action to Take**

6.2.1 If the Adult at Risk requires urgent medical attention or urgent police protection, go to [Step 3](#).

6.2.2 If the adult has an obvious injury, then staff may seek an explanation from them. Even if the explanation indicates an accidental cause then it is always good practice to record that.

If the adult speaks about experiences of financial harm, domestic abuse, discriminatory harm, physical harm, neglect, sexual abuse or emotional abuse, then listen carefully, seek basic clarification of what the adult is saying and record the information in as much detail as possible. Further information about how to support an adult who discloses abuse is contained in [Appendix 6](#).

6.2.3 If the information about the risk to the adult comes directly from them or from someone else, explain that you cannot keep this confidential and will need to speak to your line manager.

6.2.4 In many cases concerns about an adult's safety may come from a number of events or pieces of information that, when added together, indicate that they may be at risk. For example neglect or emotional harm are often the result of a series of events which impact on the adult's mental and physical health over a period of time. It is always appropriate to seek advice and make an Adult Protection referral if the information indicates the adult may be at risk. Acting quickly to seek advice and share information is important and gives the best opportunity to protect the adult. Consent is not required to make an Adult Protection referral. Please see Step 4 for more information about confidentiality and sharing information.

6.2.5 The timing and nature of further contact with the adult, carers or family must be decided by the investigating agencies following the making of an Adult Protection referral.

6.2.6 There will be circumstances when the person who has the concern about the adult is unsure if the adult is at risk or not. Advice can always be sought from a line manager, for NHS Shetland staff from the Protection Nurse Adviser or from Adult Duty Social Work / Allocated Social Worker. It will always be appropriate to seek advice so that support can be offered and maybe harm to an adult prevented.

## STEP 2 – Reporting

6.3 **Person Responsible** – Anyone with a concern has a duty to report it. If a staff member is responsible for making a referral, they should do so in consultation with their line manager (except where the line manager is implicated in the alleged harm). Family/community members with a concern about an adult, should contact Adult Duty Social Work/allocated social worker.

6.4 **Action to Take** – Consultation with Line Manager / Supervisor.  
Discuss concerns with your Supervisor / Line Manager as soon as possible. If they are unavailable, or have been implicated in the allegation of harm, a suitable alternative manager should be sought. The full facts and circumstances of the situation should be shared with the line manager without delay.

The following points, amongst others, may be considered.

- The adult's level of capacity and consequent involvement in actions / decisions / choices.
- If it appears that there has been an incident or incidents of harm to an Adult at Risk, there is a duty to report to Adult Social Work (or Police Scotland in more urgent situations). There is a statutory duty on the local authority to undertake 'initial inquiries' **Do not delay in making an adult protection referral to Adult Duty Social Work / Allocated Social Worker.**
- Whether emergency action is likely to be necessary and any steps required to secure the Adult at Risk's immediate safety. If emergency action is required do not hesitate to provide this for the service user i.e. call an ambulance or NHS 24, or the Police. [See Step 3 below.](#)
- Record discussion and any action taken.

### 6.5 **Specific Guidance for NHS Shetland Health Professionals**

NHS Shetland and the Adult Protection Guidance for Health Professionals issued by Scottish Government have agreed that some staff are able to make a direct referral to Adult Duty Social Work / Allocated Social Worker without consulting with a line manager.

- Consultants
- Accident and Emergency staff
- Health visitors
- Midwives
- GPs
- Advanced Nurse Practitioners
- Practice Nurses
- Community Nurses
- The Scottish Ambulance Service

All of these staff can seek advice and guidance from line managers, but are not obliged to do so before making a referral.

Good practice would be that a copy of the written referral would follow the telephone referral and would be shared with line managers, the patient's consultant if made during a hospital stay, and with the Protection Nurse Adviser. NHS staff can contact the Protection Nurse Adviser to discuss concerns about any adult and to seek advice about making Adult Protection referrals. The Protection Nurse Adviser is contactable on 07795 304 038. There is additional guidance on adult protection for GP's [Adult support and protection: guidance for GPs and primary care teams - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2016/05/Adult_support_and_protection_guidance_for_GPs_and_primary_care_teams.pdf)

General Practitioners have a key role in protecting vulnerable adults and specific national guidance has been developed to support them. See also national guidance issued for healthcare professionals regarding female genital mutilation: [http://www.sehd.scot.nhs.uk/cmo/CMO\(2016\)05.pdf](http://www.sehd.scot.nhs.uk/cmo/CMO(2016)05.pdf)

### **STEP 3 – Referring - When immediate medical assistance or Police involvement is needed because a crime may have been committed or there is an immediate risk of harm**

6.6 **Person Responsible** – the staff member or any other person

6.7 **Action to be taken**

- If urgent medical assistance is required, take the adult to Accident and Emergency or phone for an ambulance. ([see Chapter 11 - Medical](#))
- Where there is a report or suspicion of a crime or if immediate assistance is required, an Adult Protection referral can be made direct to the Police in an emergency by phoning 999. This may also need to be considered if the safety of the adult and the staff member is at immediate risk.
- All action taken **must** be recorded and discussed with a line manager or an alternative manager as soon as possible – but do not delay summoning emergency help.

## **STEP 4 – Recording**

6.8 **Person Responsible** – Person/staff member who has the concern about the Adult at Risk and their Line Manager.

6.9 **Action to Take**

**It is not necessary to seek consent before making an Adult Protection referral**, however, if it does not increase the risk to the adult or alert a suspected perpetrator it would be good practice, wherever possible, to inform an adult that a referral will either be made or has been made. It would be unfair to ask an adult to give consent to an Adult Protection referral being made if the person responsible and the line manager have a duty to make a referral anyway.

It is also important to consider if the Adult at Risk of harm is being influenced – placed under undue pressure by a relative, partner, family member or friend so that they are not able to protect themselves. If there is any evidence or concern about undue pressure, then an Adult Protection referral should be made without delay to Adult Duty Social Work. See also [Appendix 3](#) of these Procedures for more information on Undue Pressure.

Balancing the adult's right to make choices about their own life with the right to be protected and live their life free from harm can be complicated. However at the stage that the person responsible and their line manager have agreed that the adult is potentially at risk then making an Adult Protection referral is appropriate. It should be noted that at the later stages in the Adult Protection process adults can choose to opt out and their right to do so would be respected where possible. Further information about participation, consent and advocacy is available in [Chapter 8, Paragraph 8.2](#).

## **STEP 5 – Referral to Adult Social Work Team**

6.10 **Person Responsible** – Staff member / Line Manager.  
Referral to Adult Social Work Duty Social Worker /Out of Hours Duty Social Worker / Allocated Social Worker

### 6.11 **Action to Take**

If there is a suspicion, allegation or clear evidence of harm, a referral to Adult Duty Social Work should be made **by telephone without delay** (01595 744468). If the concern arises outside of normal office hours, a referral must be made to the emergency Out of Hours duty social worker who is contactable via (01595 695611). Please note that the Out of Hours duty social worker will call the referrer back to discuss the concerns.

The referral should include as many of the following details as possible. If the Social Worker feels it would be beneficial to capture the information in writing, possibly due to its complexity, a request can be made to complete the referral form in [Referral to Social Work](#). Information should be captured on the [Duty to Inquire form](#) with the initial assessment of the 3 point criteria considered.

The adult's name, address, date of birth, ethnic origin, gender, religion, GP, type of accommodation, family circumstances, support networks, physical health and communication difficulties if any, mental health including whether the person is subject to an order within the terms of the Mental Health (Care and Treatment Scotland Act 2003) ([www.mwcscot.org.uk/the-law/mental-health-act/](http://www.mwcscot.org.uk/the-law/mental-health-act/)), or the Adults with Incapacity (Scotland) Act 2000 ([www.mwcscot.org.uk/the-law/adults-with-incapacity-act/](http://www.mwcscot.org.uk/the-law/adults-with-incapacity-act/))

**Referral information** requested, either on a form or over the phone, may include:

- Details of the person completing the referral
- Details of the person subject to the referral, including name, date of birth, address
- The primary user group or client category of the patient, if known (e.g. learning disability, mental health, dementia, substance misuse, acquired brain injury, physical disability)
- Any communication needs of the Adult at Risk
- Harm type(s) suspected
- Whether the Adult at Risk is aware of the referral
- Details of the concern, including as much information as possible about the incident(s), dates, alleged harmer(s), previous concerns, any safeguarding activity undertaken
- An overview of the "Three-Point Criteria":
  - I. In your opinion, is the adult able to safeguard their own wellbeing, property, rights or other interests?
  - II. In your opinion, is the adult at risk of harm?
  - III. In your opinion, is the adult affected by disability, mental disorder, illness or physical or mental infirmity, making them more vulnerable to harm?

- Confirmation of whether police have been contacted if a crime is suspected
- Any relevant relationships, proxy decision makers (Guardian or Power of Attorney), and/or caring responsibilities of the adult

Once the referral is made by telephone the [Referral to Social Work form](#) should be completed and sent to the Adult Social Work Team. It can be securely emailed to [dutysocialwork-adults@shetland.gov.uk](mailto:dutysocialwork-adults@shetland.gov.uk)

A copy should be retained for the records of the referring agency. NHS Shetland staff should also send a copy to the Protection Nurse Adviser.

### **Out of Hours Duty Response (tel. 01595 695611 for Out of Hours Duty Social Work)**

Shetland is too small to have a waking 24 hour social work response team, but help in an emergency situation or where the risk to an adult is such that it will not wait until the next morning can always be obtained at any time of the day or night via the Duty Social Work service.

The Out-of- Hours number will be answered by an operator who will contact the Duty Social Worker or Duty Social Work Manager, who will call the referrer back. The referrer will need to provide a number for this purpose. However, if the referrer is unable to give a number, it is important as much information as possible is provided to the operator, who will pass it on. It is more helpful if the Duty Social worker can speak directly to the person making the referral in order to respond in the best way possible to safeguard the adult.

The Duty Social Worker receiving the call will check social work records to identify if the adult is known to the department.

After checking to see if the adult is known, the Duty Social Worker will contact the Out of Hours Manager to discuss what actions may be necessary to take to protect the adult. There may be difficulties in seeking information out of office hours however, action will always be taken by social work, involving Police Scotland if necessary, to provide immediate protection to an adult at risk of harm if that is required, including safeguarding them overnight, if required until further plans can be made.

Police Scotland should be contacted by dialling 999 if an emergency response is required and 101 for more routine matters.

The Out of Hours Social Work Manager will ensure that the relevant information is shared with the Adult Duty Social Work Team or the relevant allocated social worker, for the next working day. Adult Duty Social Work, or the relevant allocated social worker in consultation with their line manager, will then consider what actions need to be taken within appropriate timescales.

## **STEP 6 – Responsibility of Social Work – Duty to Inquire**

- 6.12 **Person Responsible** – Duty Social Worker / Allocated Social Worker receiving the referral and Senior Social Worker (Adult Social Work Team).

Under Section 4 of the Adult Support and Protection (Scotland) Act 2007 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 (by performing functions under the Act) in order to protect the person's wellbeing, property or financial affairs.

**Adult Protection referrals must take priority over all other work and must be responded to within 24 hours. At a minimum this means the Duty Social Worker /Allocated Social Worker should use [Form 3 Duty to Inquire](#) to record all information and decisions.**

The Duty to Inquire arises whether or not the adult is aware that concerns have been raised. Adult Duty Social Work should always be aware of situations where an Adult at Risk is subject to undue pressure – please see [Appendix 3](#) for more information.

- 6.13 **Action to Take**

On receipt of information indicating that an Adult at Risk may have been abused or suffered harm or neglect, Duty Social Worker / Allocated Social Worker will record all relevant details that are available on [Form 3 –Duty to Inquire Form](#):

- The Adult at Risk
- The alleged harm suffered
- The alleged perpetrator
- The adult's family/carers
- The referrer

- 6.14 Notify the Senior Duty Social Worker / Line Manager as soon as possible. The Senior Social Worker will be responsible for ensuring the appropriate checks are made and will coordinate any actions necessary to protect the Adult at Risk and to support and advise the Social Worker.

- 6.15 **Allegations Against Staff**

If the Adult Protection referral indicates that an adult has been harmed by a staff member, then the Senior Social Worker should inform the Executive Manager for Adult Services and steps should be taken to inform the Care Inspectorate if this is required. Further information about managing allegations against staff and volunteers is given in [Appendix 2 - Allegations Against Staff](#).

If the harm is attributable to the care being provided by a personal assistant employed by the adult through Direct Payments then Adult Protection Procedures should be followed. Further consideration should then be given to the advisability of continuing with Direct Payments. Again, please see [Appendix 2 – Allegations Against Staff](#).

In situations where a personal assistant or staff member or volunteer may have caused harm to an adult, the risks to other adults who have contact with them need to be considered.

There may be situations where a number of adults are at risk: being targeted by a particular perpetrator; having contact with a carer or volunteer who has harmed one adult and may be risk to others; numbers of adults receiving inappropriate neglectful care in a care setting (residential, day care or NHS). In these situations the Senior Social worker and Executive Manager should discuss the requirement for a Large Scale Investigation and follow the protocol at [Appendix 7 – Large Scale Investigations](#) of these procedures.

In situations where the Adult at Risk is believed/known to have a mental disorder, it would be good practice to seek the advice of a Mental Health Officer.

6.16 The Duty Social Worker/ Allocated Social Worker will ensure the following checks are made using [Form 3 – Duty to Inquire](#)

- A check of Social Work records.
- Discussion with social care or social work staff who may know the adult.
- NHS Shetland records. These can be accessed through the Protection Nurse Adviser who should be the first point of contact. General Practitioner, Hospital, Accident and Emergency Department, Community Nurse and the Community Mental Health Team records can be checked and relevant and proportionate information shared.
- The Local Authority for any known recent address.
- Other services as appear relevant – Housing Services, Justice Social Work Team, Children's Social Work, Third Sector Services, etc.
- On receipt on an Adult Protection referral, the Senior Social Worker will contact the Police Scotland Public Protection Hub ([HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk](mailto:HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk)) which will undertake appropriate check of Police records and will take responsibility for any Inter-Agency Referral Discussions. Liaison between the Hub and the Shetland based Police Scotland Inspector and police officers will then facilitate any local criminal investigations or just investigations as agreed and required.
- Where there are three or more referrals received within a six month period in relation to an individual who is not allocated to Social Work, their situation will be discussed at the weekly Adult at Risk Concern Hub meeting. This will allow for a thorough inter-agency discussion and decisions about any further action can be taken. An Inter-Agency Referral Discussion can be arranged if that would be a quicker and more appropriate response to the concerns raised. If the three or more referrals are for an Adult at Risk who is an allocated case to Social Work, the

allocated Social Worker will take forward an Inter-Agency Referral Discussion, with guidance from their line manager.

- 6.17 **It is important to note that under [Section 10 of the Adult Support and Protection \(Scotland\) Act 2007](#) ALL agencies and organisations have a duty to share information with Social Work when they are inquiring into the circumstances of an Adult at Risk. Any agency or organisation who has duty under Section 10 to share information which is refusing to do so potentially commits an offence under Section 49 of the Act. A standard letter can be sent from Shetland Islands Council Adult Social work formally requesting appropriate information and reminding individuals and agencies of their duties ([Please see Appendix 8 - Section 10 Letter](#))**
- 6.18 Consideration will need to be given by the Duty Social Worker/Senior Duty Social Worker to the needs of the alleged perpetrator who may also be an Adult at Risk themselves. A separate referral in respect of the alleged perpetrator may be appropriate in such cases.
- 6.19 **Duty to Inquire** will be conducted by the Duty Social Worker/Allocated Social Worker, and will involve the comprehensive gathering of information from all relevant agencies. Inquiry should be completed within five working days to assist in deciding whether the adult meets the [Three Point Criteria](#), what risk the adult is being placed at, if any, and also what care needs they may have. Initial information gathering will be conducted by the Duty Social Worker/Allocated Social Worker which will allow an assessment of possible risks and should indicate the likelihood of harm being perpetrated or if there are other unexplained/complex issues which require further exploration. This will then either proceed to an Inter-Agency Referral Discussion, be dealt with using other legislation, or not require any further action.

If it progresses to an Inter-Agency Referral Discussion, a decision will be made whether or not to go to an Inquiry with Investigatory Powers. The Adult Support and Protection (Scotland) Act 2007. Code of Practice 2022, states that:

“If desktop inquiries do not provide sufficient information to determine whether or not the adult is at risk, then further steps should be taken to allow for such a determination to be made. If this involves a visit and direct contact with the adult for interview or medical examination, or for the examination of records, the Act requires that a council officer must be involved.”

Therefore, if the Inter-Agency Referral Discussion determines that it is appropriate for an initial information gathering visit to be made to the Adult at Risk of harm, this must be carried out by a [Council Officer](#). In terms of the Act, then, any such visit is considered as a use of investigatory powers and as such is an Investigation. Information gathering visits can be particularly helpful in situations where it is not clear from the referral what the nature and level of risk is.

In any case Initial Inquiries should be completed within five working days. In situation where this is not possible due to unavoidable delays e.g. when seeking information from the Office of the Public Guardian or from financial bodies this should be recorded as a delay. [Form 3 Duty to Inquire](#) should be used to collate information and decisions.

- 6.20 Once comprehensive information is gathered from all agencies a decision may be taken in non-urgent cases to discuss the adult's situation at the Adult at Risk Concern Hub, which is held weekly.
- 6.21 The Duty Social Worker/Allocated Social Worker will provide an acknowledgement to the referrer within 48 hours of receiving the referral.
- 6.22 Once the Social Worker has gathered the relevant information, using [Form 3 – Duty to Inquire](#) they will then submit the completed Form 3 – Duty to Inquire, to their Senior Social Worker, who will consider whether there is any further action required. If further action is required, consideration will be given to proceeding to an Inter-Agency Referral Discussion.
- 6.23 It is often the case that a new referral is received by Adult Duty Social Work relating to an adult who already has an allocated Social Worker and a current care package. This referral will be passed to the allocated Social Worker and their Senior to respond to. However, the process outlined above needs to be followed to provide a clear audit trail of the response to the referral and to ensure that all the statutory requirements to inquire into the adult's situation are completed and any inquiries with investigatory powers are conducted. [Form 3 Duty to Inquire](#) should be completed. Special care may need to be taken as there may be a tendency to see a possible Adult at Risk referral as just another incident in a complex situation which is already known about. The inter-agency information gathering and subsequent risk assessment always need to take place, and be recorded, to ensure that risks and needs are responded to.
- 6.24 It is best practice that the adult who is subject to the investigation should be informed that they are subject to an Adult Support and Protection Investigation and that their views will be sought where possible. It is recommended that these initial conversations – in any format - are undertaken by a Council Officer.
- 6.25 [The 2022 Code of Practice for the Adult Support and Protection Act \(Scotland\) Act 2007](#) also states the following with respect to inquiries and investigations:  
*To ensure robust risk assessment, any reports generated as part of, or at the conclusion of, inquiries, including use of investigative powers, **should include all relevant information and a chronology, to be completed by the duty social worker/council officer.** Analysis of risk and the adult's ability to safeguard themselves are key. Reports should also include information pertaining to significant others in the adult's life, and provide a clear overview of the risks, vulnerabilities and protective factors, as well as the adult's views. (Page 61)*

## **STEP 7 – Inter-Agency Referral Discussions, Debriefs and Professionals’ Meetings**

### **6.26 Person Responsible**

Duty Social Worker / Allocated Social Worker in consultation with Senior Social Worker, Police Officer from the Concern Hub and NHS Protection Nurse Adviser.

NB. A Duty Senior Social Worker will attend any Inter-Agency Referral Discussion in relation to individuals unallocated to Social Work, and the relevant Senior Social Worker will attend in relation to any cases already allocated to Social Work.

### **6.27 Action to take**

The Inter-Agency Referral Discussion will commence as soon as practicable and commensurate with the assessed risk to the adult or others, and will be held no later than five working days.

6.27.1 **Inter-Agency Referral Discussions** are arranged by emailing [HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk](mailto:HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk). The email should include the completed [Form 4 - Record of Action Taken](#), and ensure that the following details are provided:

- a brief summary of the concerns including details for the individual (Name, Date of Birth and address);
- If there is a potential perpetrator, their details should be provided if possible along with any other relevant information;
- Any issues relating to capacity or any other additional needs.

6.27.2 The Police need a minimum of one hour's notice to set up a meeting. They will send out a Microsoft Teams invite for the Inter-Agency Referral Discussion to the relevant Senior Social Worker and the Protection Nurse Adviser.

6.27.3 An Inter-agency Referral Discussion is a vital stage in the process of information sharing, assessment of risk and decision making about an adult who is known or believed to be an Adult at Risk of Harm. An Inter-Agency Referral Discussion should usually involve only Police, Health and Social Work. Any agency can initiate an Inter-Agency Referral Discussion. Its aim is to:

- Share relevant and proportionate information about the adult and any relevant family members/carers;
- Assess whether the Adult at Risk meets the Three-Point Criteria;
- Consider what kind of investigation should be undertaken (a Police Criminal investigation or Council Officer Investigation or a Joint Investigation). There may be situations when further inquiries are required

to establish if any formal Adult Protection Investigation or other actions are required;

- Police Scotland may advise other agencies that a criminal investigation needs to be conducted (for e.g. into alleged assault or theft) and this process may need to take priority. However, any actions required to protect the Adult at Risk should be put in place. As part of this, Police Scotland will consider if an Appropriate Adult is required;
- Determine whether a medical examination is required and make appropriate arrangements for this ([see Chapter 11 - Medicals](#)). It is the responsibility of the Police to co-ordinate forensic medical examinations. In cases of serious sexual offences Police Officers should follow the 'Scottish Investigators Guide to Serious Sexual Offences'.
- Conduct and agree an initial risk assessment;
- Agree an initial action plan/risk management/safety plan and establish which agencies are to be involved, and also to identify the lead agency;
- Consider whether an intervention under the Adult Support and Protection (Scotland) Act 2007 is required. This can include visits, interviews and medical examinations of records to gather more information;
- Consider whether urgent [Protection Orders](#) under the Adult Support and Protection (Scotland) Act 2007 are necessary. Agree a contingency plan if entry is refused and whether or not an application for a warrant may be necessary;
- To consider the capacity of the Adult at Risk and whether this has ever been, or requires to be, assessed;
- Consider whether any form of enhanced communication will be needed to facilitate communication, or if the person may need an interpreter if they sign or English is not their first language;
- Consider if the offer of advocacy should be made to the adult;
- Consider whether there are any other adults or children under 18 who may be at risk of harm and consider the requirement for a [Large Scale Investigation –please see appendix 7](#)).

6.27.4 Inter-Agency Referral Discussions and debrief Inter-Agency Referral Discussions must always consider the need for an Initial Adult Protection Case Conference and the decision should be recorded as an outcome. The decision **not** to proceed to an Initial Adult Protection Case Conference should also be recorded.

6.27.5 All professional staff who are invited to attend an Inter-Agency Referral Discussion or Adult Protection Professionals' meeting have the following responsibilities and must come prepared with:

- Relevant and proportionate information in respect of the Adult at Risk from their own agencies records;
- A chronology if one is available;
- Any information in respect of a carer or family member which is relevant to the discussion. For example, concerns that an older person living with dementia is being neglected may be the substance of the referral and knowing that their carer has a significant medical record of alcohol misuse would be important in assessing risk to the adult as well as considering any help the carer may require.

6.27.6 Inter-agency Referral Discussion take place by Microsoft Teams however, in complex cases, and where a range of different professionals are involved, or in situations where inquiries have raised additional questions, it may be appropriate to also then convene an Adult Protection Professionals' meeting. Please see below.

6.27.7 The decisions made at an Inter-Agency Referral Discussion will be recorded by Police in a brief note and forwarded on to Social Work. The Social Worker should ensure that this information is then added into Form 4 - Record of Action, in the section relevant to Inter-Agency Referral Discussions. The Senior Social Worker will send a copy to the representative(s) of any other agencies who attended the meeting.

6.27.8 In situations where an Inter-Agency Referral Discussion is likely to decide that a Council Officer led investigation will be required it is helpful wherever possible to identify who the Council Officer will be and include them in the meeting. [Chapter 9](#) contains more detailed information for Council Officers about conducting formal investigations and outlines their roles and responsibilities. This chapter also gives information about who can act as a Council Officer.

6.27.9 In cases arising outside of normal working hours, it may be that only the Police and Social Work (Out of Hours Executive Manager) are available to determine any action to be taken at that time. The Council Officer will be appointed in accordance with these decisions.

6.27.10 Disagreements about the methods of progressing the investigation, if not resolved at the Inter-Agency Referral Discussion, will be referred to the Chief Social Work Officer and the Chief Inspector of Police Scotland Shetland Area Command, for consideration.

6.27.11 Where there are three or more referrals received within a six month period in relation to an individual who is not allocated to Social Work, their situation will be discussed at the weekly Adult at Risk Concern Hub meeting. This will allow for a thorough inter-agency discussion and decisions about any further action can be taken. An Inter-Agency Referral Discussion can be arranged if that would be a quicker and more appropriate response to the concerns

raised. If the three or more referrals are for an Adult at Risk who is an allocated case to Social Work, the allocated Social Worker will take forward an Inter-Agency Referral Discussion, with guidance from their line manager.

NB A discussion at the weekly Adult at Risk Concern Hub meeting resets the count of three referrals.

6.27.12 Further Inter-Agency Referral Discussions /Debrief Inter-Agency Referral Discussions may be necessary on receipt of additional information from any investigative interview, medical examination or other relevant source, in order to assist the decision-making process.

## **6.28 Adult Protection Professionals' Meetings**

In some instances where there are a number of agencies involved, or there are complex allegations and care needs, in addition to calling an Inter-Agency Referral Discussion, a wider Adult Protection Professionals' meeting is also helpful. This would be coordinated and chaired by the Senior Social Worker and invites sent to the local Police via the hub inbox [Highlandislandsconcernhub@scotland.police.uk](mailto:Highlandislandsconcernhub@scotland.police.uk). This can be a useful approach when:

- when information coming from professional staff/carers/family members/the adult is not entirely clear or is conflicting;
- there have been allegations against staff;
- considering the requirement for a Large Scale Investigation.

6.28.1 The Adult Protection Professionals' meeting will be chaired by the Senior Social worker, be held within ten working days of the referral and be minuted by Social Work administration staff. The Adult at Risk would usually be informed that this meeting was being held, unless to do so would either impede a Police investigation, cause significant distress, or place the adult at additional risk of harm.

6.28.2 Consideration will always be given to the involvement of representatives of other disciplines at any stage of the planning process. Human Resources staff from the appropriate agency may need to be involved if the meeting is considering an allegation against a staff member, however the confidentiality of the Adult at Risk needs to be considered and human resources staff should only be party to the information they need with regard to the allegation against a member of staff, and would only participate in the part of the discussion relating to how the staff member may need to be dealt with.

## **6.29 Debriefs**

6.29.1 Debriefs will be called to discuss the outcome of any formal investigations and may also decide if an Adult Protection Case Conference is required.

Once Social Work have undertaken any required actions/investigations, Social Work email the police at: [Highlandislandsconcernhub@scotland.police.uk](mailto:Highlandislandsconcernhub@scotland.police.uk) with actions completed and decisions and they will then advise if a Debrief meeting is required. Police will usually request a seven day update form Social Work on agreed actions following and Inter-Agency Referral Discussion.

6.29.2 Step 8 of this Stepwise Guide outlines the process of formal investigation. Once this is completed, a Debrief Inter-Agency Referral Discussion will be arranged by Social Work Administrative support.

6.29.3 The purpose of Debrief meeting is:

- To share information with all agencies;
- To determine any further actions. Police Scotland may need to start a criminal enquiry on the basis of information gathered;
- To assess the continuing risk to the adult and decide if an Adult Protection Case Conference and a Protection Plan may be required;
- To assess and decide if any legal action is required to safeguard the adult- either under the Adult Support and Protection (Scotland) Act 2007 or Mental Health (Care and Treatment) Act or the Adults with Incapacity Act;
- To consider updates to initial risk assessments and risk management plans;
- To consider the needs of the Adult at Risk and if an assessment of needs using the With You For You process or a review of an existing care plan is required;
- To consider any medical needs the adult may have.

Debriefs also take place for cases which have been dealt with at a Professionals' Meeting, in addition to an Inter-Agency Referral Discussion, Invites would be sent to local Police via the hub [Highlandislandsconcernhub@scotland.police.uk](mailto:Highlandislandsconcernhub@scotland.police.uk)

6.29.4 Inter-Agency Referral Debrief meetings will be minuted by the Police and shared with all participants. A Debrief meeting can decide that an Adult Protection Case Conference is required. Initial Adult Protection Case Conferences should be **convened within 14 working days** of the decision to call a Conference. Further information about Adult Protection Case Conferences is in [Chapter 7: Adult Support and Protection Case Conference](#).

## **STEP 8 – Investigation**

### 6.30 **Person Responsible**

With the exception of a criminal investigation, a Council Officer is responsible for taking forward an investigation, in partnership with a second worker.

### 6.31 **Background**

6.31.1 The main purpose of an Investigation is to learn of the Adult at Risk's experiences of harm, if any, and to gather information in order to take or plan any necessary action.

A Council Officer will be identified through the Duty Social Work system and will proceed with the investigation within 24 hours of the Inter-Agency Referral Discussion.

6.31.2 The inquiry with investigatory powers will be carried out by a professional who can undertake the duties of a [Council Officer](#) under the Adult Support and Protection (Scotland) Act 2007 and a Second Worker. A Second Worker who may be an NHS practitioner or a member of care staff can assist the Council Officer in supporting and communicating with the Adult at Risk during the investigation. The relevant Senior Social Worker will agree who is the most appropriate second worker, depending on the nature of the investigation. The skill-set and profession of the second worker should be considered to maximise the outcome of the process, for example, a health professional may be able to undertake a necessary medical examination during the visit. The second person also takes a record of the interview and submits this to Social Work immediately afterwards. In circumstances where there are indications that an offence may have been committed, investigations will be led by Police Scotland. The Inter-Agency Referral Discussion may decide that it is appropriate for a Joint Investigation involving Police Scotland and Social work to be carried out.

6.31.3 There should always be two individuals, one of them must be a Council Officer, involved in the investigation to ensure staff are protected and that there is corroboration of evidence. It is good practice to ask an Adult at Risk whether they would wish another person to be present during the interview, and to facilitate this where possible. For example, a family member, paid carer or an [independent advocacy worker](#) may be requested by the Adult at Risk. Consideration should be given to potential undue pressure; be mindful of the situation and environment in which the Adult at Risk is asked about their preferences for the presence of another person. Also be mindful of the impact of any interview on others.

6.31.4 Staff must be sensitive to the effect that multiple interviews may have on the Adult at Risk; this may be perceived as abusive and should be avoided by good inter-agency co-ordination.

### 6.31.5 **Where an Adult at Risk Declines to Participate**

An Adult at Risk may appear to meet the criteria of an Adult at Risk under the terms of the Act, but may indicate that they do not want support and/or protection. This can mean that, in effect, the Adult at Risk decides not to co-operate with inquiries or other actions being undertaken.

Such a decision not to co-operate does not absolve the Council and its partners of responsibilities to make inquiries about the adult's circumstances and the degree of risk. Also, any inquiries should consider the Adult at Risk's capacity to understand the risks they are exposed to and the possible consequences of not engaging with inquiries, risk assessment, or protective intervention. Practitioners should retain a trauma informed approach when considering reasons for an Adult at Risk not engaging, and remain alert to the possibility that undue pressure might have contributed to a decision to refuse co-operation.

6.31.6 Even if there are no concerns in relation to capacity or undue pressure, the Adult at Risk's refusal to co-operate in an Adult Protection Investigation should not automatically signal the end of any inquiry, assessment or intervention. Whilst the Adult at Risk has a right not to engage 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 significant risks. Any assistance should be proportionate to the risk identified and any need to support carers' needs should be considered.

## 6.32 **Visits by [Council Officers](#)**

Under the Adult Support and Protection (Scotland) Act 2007, a Council Officer may attempt to gain entry to a property, with the consent of the Adult at Risk, but the Adult at Risk is allowed to refuse.

**Where access to a place is refused, it might be necessary to consider the need to apply for a Warrant of Entry [Chapter 10: Legal context – Warrant of Entry](#).**

6.32.1 The **purpose of a visit** – is to assist the Council:

- **To decide whether the adult is an Adult at Risk of harm** and
- **To establish whether the Council needs to take any action in order to protect the Adult at Risk from harm**

A Council Officer **may enter any place to enable or assist an inquiry (s.7 (1))**.

6.32.2 [Section 7](#) of the Adult Support and Protection (Scotland) Act 2007 permits a Council Officer to enter any place. In the majority of cases this will mean visiting the place where the adult normally resides, for example, this list is not exhaustive:

- the adult's rented or owner-occupied accommodation;
- the home of relatives, friends or others with whom the person resides;

- supported or sheltered accommodation staffed by paid carers;
- temporary or homeless accommodation; or
- a care home or other care setting.

A place could also include entering premises where the person is residing temporarily or spends part of their time, for example:

- a day centre;
- a place of education, employment or other activity;
- respite residential accommodation; or
- a hospital or other medical facility.

The Council Officer is allowed access to, and can examine, all parts of the place visited which might have a bearing on the investigation into the welfare, care and safety of the Adult at Risk. This right also includes access to any adjacent places, such as sheds, garages and outbuildings. In the case of the visited adult's place of residence, this could include all areas used by or on behalf of the Adult at Risk such as sleeping accommodation, facilities for hygiene, meal preparation areas and general living space.

6.32.3 Visits should be planned to take place at "reasonable times". However there should be a recognition that a balance needs to be struck between the timeous investigation of allegations of harm and the requirement to involve the visited adult and carers/family in the process of the investigation.

6.32.4 Visits should be timed to allow the Adult at Risk to be spoken to in private.

6.32.5 A Council Officer must: under s.36 (2) of the Adult Support and Protection (Scotland) Act 2007:

- Produce **evidence of own identity**, following local adult protection procedures, and of any **person accompanying**
- **State the object of the visit and**
- **Produce evidence of the officer's authorisation to visit the place. (If a Warrant has been obtained)**

**There is an obligation to be clear that the purpose of the visit is to investigate a suspected risk of harm. Wherever possible, other people in the household should also be offered an explanation as to what is happening and why, without breaching the adult's right to confidentiality. Every effort should be made to ensure that any information provided is in an appropriate form that the adult, or other person present, can understand.**

Seek to ensure that any **information provided is in an appropriate form.**

The leaflet "[Keeping You Safe](#)" which gives basic information about the process of investigation and lets an adult know how their personal data will be handled should also be given by the Council Officers.

## 6.33 Interviews

6.33.1 Before carrying out any interviews, the Council Officers and any other Investigating Officer (e.g. Police Officer) – must discuss and agree the structure of the interview. The roles of the different officers must be explained to the interviewee before the interview commences. The interview will be recorded in writing and this should be explained to the interviewee as well as how information will be shared following the interview.

6.33.2 A Council Officer, and any other person accompanying the Officer as part of the investigation, may interview in private, any adult found in a place being visited.

6.33.3 An Adult at Risk interviewed under this section of the Adult Support and Protection (Scotland) Act 2007 has a legal right not to agree to the interview in its entirety or choose to answer some questions but not others. Adults must be informed of that fact before the interview starts. The Council Officer needs to clarify if the interviewee has understood this right and consider if the individual has the capacity to understand prior to commencing the interview. It is crucial that the individual is assisted to raise concerns with a minimum of prompting. Council Officers should also carefully consider if an adult is subject to undue pressure and that is why they are not able to consent to an interview ([see also Appendix 3 for more information on Undue Pressure](#)).

### 6.33.4 **Considering the Adult's Rights During an Interview**

Section 8(2) of the Adult Support and Protection (Scotland) Act 2007 provides that the Adult at Risk is not required to answer any questions. The Adult at Risk must be informed of that fact before the interview commences. The Adult at Risk can choose to answer any question put to them but the purpose of this section is to ensure that they are not forced to answer any question that they choose not to answer. Support must be provided where necessary in order to enable the Adult at Risk to come to a decision on whether to answer any questions – for instance, where they have some level of incapacity. In keeping with the Act's principles, an Adult at Risk must be assisted to participate as fully as possible in any interview(s). Where an Adult at Risk can make some contribution, or participate to some extent, the planning process for the interview must consider all appropriate ways of assisting the person to participate. This might include the use of communication aids, consideration of the location of the interview, and of the personnel present during an interview. The purpose of support will be to assist the Adult at Risk to contribute whilst always protecting the rights of the Adult at Risk.

The use of independent advocacy and/or the presence of other support people during an interview are some options the planning process might consider.

Seeking the consent of the Adult at Risk to be interviewed requires a more proactive approach than simply advising the Adult at Risk that they are not

obliged to answer questions. The point is to ensure that the Adult at Risk is given reasonable opportunity and encouragement to answer questions whilst respecting their right not to. Section 35(6) does not permit a Council Officer or medical practitioner to ignore an adult's refusal to be interviewed or medically examined even after an assessment order has been granted.

6.33.5 Consideration must be given as to how best to promote the Adult at Risk's participation in the interview through identifying whether communication aids or other support may be required, e.g. a specialist in sign language or other non-verbal communication; or a family member or carer to aid communication or the assistance of an independent adult.

### **6.34 Examination of records**

6.34.1 [Section 10 of the Adult Support and Protection \(Scotland\) Act 2007](#) states:  
Council Officers may require someone to provide health, financial or other records.

- This includes records held in audio, visual or other formats.
- Requirement may be made during a visit or at any other time.
- Requirement made at any other time must be made in writing.
- Inspection can be by the officer and any other appropriate person.

**NB: It is an offence for a person to fail to comply with a requirement to provide information, except with reasonable excuse.**

6.34.2 There are particular powers in respect of Health Records.  
Health Records are defined – as relating to an individual's physical or mental health and made by or on behalf of a health professional.

6.34.3 The Adult Support and Protection (Scotland) Act 2007 states that health records may be:

- a) **Sought and obtained** by a Council Officer  
But
- b) **Inspected only** by a health professional

Health professionals holding records must act within their professional guidance.

6.34.4 The decision to make an application for the examination of records will normally be taken in a multi-disciplinary context in an initial or subsequent Inter-Agency Referral Discussion at which legal advice must be obtained.

6.34.5 In exceptional circumstances this decision can be taken by the Chief Social Work Officer or their designate in collaboration with Shetland Islands Council Legal Services.

6.34.6 **Guidance on Reporting from the 2022 Code of Practice**  
[The 2022 Code of Practice for the Adult Support and Protection \(Scotland\) Act 2007](#) also states the following with respect to inquiries and investigations:

*“To ensure robust risk assessment, any reports generated as part of, or at the conclusion of, inquiries, including use of investigative powers, should include all relevant information and a chronology, to be completed by the council officer. Analysis of risk and the adult's ability to safeguard themselves are key. Reports should also include information pertaining to significant others in the adult's life, and provide a clear overview of the risks, vulnerabilities and protective factors, as well as the adult's views.” (Page 61)*

## **Chapter 7: Adult Support and Protection Case Conference**

### **7.1 Arranging the Case Conference**

7.1.1 An Initial Adult Protection Case Conference will be called by the Senior Social Worker from Adult Social Work within 14 working days of a decision to hold a Conference being made.

7.1.2 The decision to convene a Case Conference will usually be taken at the Debrief Inter-Agency Referral Discussion following the conclusion of the investigation. In circumstances where no investigation has occurred but the initial inquiries/cumulative concerns indicate the need for a Case Conference, then this will be also called by the Senior Social Worker.

7.1.3 The following should normally be invited to a Case Conference:

- The Adult at Risk of Harm
- The Independent Advocate – where there is one
- The Adult's carer/family member (see 7.5)
- The Adult's paid carer (where appropriate)
- The Social Worker/Council Officer
- Police
- Health staff- GP, Community Nursing Staff, Substance Misuse Service, Advanced Nurse practitioner for Learning Disability, Community Psychiatric Nurse, Consultant Psychiatrist, Protection Nurse Adviser etc.
- A representative from Shetland Islands Council Legal Services (where Legal action is being considered)
- Representatives of other agencies who are considered to have a relevant input
- Minute Taker

7.1.4 The Senior Social Worker who has been involved in the decision to convene the Case Conference is responsible for ensuring that the administrative arrangements are made.

7.1.5 Case Conferences will be chaired by the Improvement Reviewing Officer or the Lead Officer Public Protection if the Improvement Reviewing Officer is not available.

## 7.2 Purpose

7.2.1 The purpose of the **Initial Adult Support and Protection Case Conference** is:

- To gather together the Adult at Risk, appropriate members of the family/carers and the relevant agencies to share and assess information collated during an Adult at Risk investigation, and to consider other relevant background information;
- To listen carefully to the views of the Adult at Risk about their situation;
- To determine risk, and enable multi-agency consideration of cumulative concerns;
- To decide if any legal action is required to protect the adult under the Adult Support and Protection (Scotland) Act 2007 or any other legislation;
- To formulate, or provide the framework for the development of a Protection Plan which includes consideration of necessary support services;
- To agree a Support Plan, if this is more appropriate, where a Protection Plan is not indicated.

7.2.2 The purpose of the **Review Adult Support and Protection Case Conference** is:

- To review the circumstances of the Adult at Risk;
- To listen carefully to the views of the Adult at Risk about their situation;
- To monitor the effectiveness of the Protection Plan;
- To consider whether the Adult at Risk continues to be at risk;
- To amend the Protection Plan where necessary.

The first review should take place after three months and then at six monthly intervals until it is decided a Protection Plan is no longer required.

7.2.3 Where the decision of the Review Case Conference is that the Adult at Risk no longer requires to be subject to a Protection Plan, consideration should be given to the support/care needs.

7.2.4 In the event of the Protection Plan reverting to a Support Plan, this will be reviewed in accordance with the With You For You Process:

[With You For You - Pathway V1.2.doc \(shetland.gov.uk\)](#)

Any Support Plan will be reviewed in accordance with With You For You Procedures.

## **7.3 Role of the Chair of Adult Protection Case Conferences**

### 7.3.1 The Chair's role is to:

- in consultation with the Senior Social Worker or Social Worker agree who to invite, who cannot be invited and who should be excluded;
- check that any special arrangements to support the attendance and participation of the Adult at Risk, carers or family members have been put in place;
- ensure that all persons invited to the Initial or Review Adult Protection Case Conference understand its purpose, functions and the relevance of their particular contribution;
- meet with the Adult at Risk immediately prior to the conference and explain the nature of the meeting and possible outcomes;
- facilitate information-sharing and analysis;
- ensure that the views of the Adult at Risk and their carers/family members are taken into account;
- facilitate decision-making;
- If consensus cannot be reached the Chair has the ultimate responsibility to take a decision, while recording conference views;
- wherever possible, chair Review Adult Protection Case Conferences to maintain a level of consistency;
- where a decision is made that a Protection Plan is required for an Adult at Risk outline decisions that will help shape the initial Protection Plan;
- identify the allocated Social Worker, if not already appointed;
- facilitate the identification of risks, needs and protective factors and how strengths can be built on to improve the Adult at Risk's situation
- facilitate the identification of a Core Group of staff responsible for implementing and monitoring the Protection Plan;
- agree review dates;
- challenge any delays in action being taken by staff or agencies;
- ensure that timescales are adhered to, including review dates, distribution of minutes and copies of the Protection Plan and changes to plans;
- ensure that any member of staff forming part of the Core Group who was not present at the Case Conference is informed immediately about the

outcome of the Case Conference and the decisions made, and that a copy of the Protection Plan is sent to them;

- ensure an Administration Assistant from the Adult Social Work Team is invited to arrange a venue and take a formal minute.

7.3.2 To assist the Chair of Adult Protection Case Conferences there is a standing agenda – please see [Form 6: Standing Agenda for Adult Protection Case Conferences](#) in [Chapter 12](#).

#### **7.4 Participation of the Adult at Risk**

7.4.1 If the fullest [participation of the Adult at Risk](#) in supporting and protecting them from harm is to be achieved, they need to be included in the best way, taking into account their needs and capacity in all decision making processes about their support and protection.

7.4.2 The Adult at Risk (unless it is considered not to be in their best interests) should be invited and involved in setting up the Case Conference to consider risks to which they are exposed and how best they can be protected, or enabled to make informed decisions concerning potential risks. If the Social Worker has assessed that it would not be in the Adult at Risk's best interests to attend, then this should be discussed with the Chair of the Conference who will make the final decision and record the reasons. This should not prevent the Adult at Risk's views being shared at the Conference. This decision should be communicated to the Adult at Risk and they should be given an opportunity to make an appeal to the Chair of the Conference.

7.4.3 It would be the responsibility of the allocated Social Worker to maximise the likelihood of the Adult at Risk attending by providing information, choice of venue, day and time of the Conference, other attendees, online options and support with travel arrangements. Consideration should also be given to augmented communication needs, translator, supporter and advocate. Adults at Risk may have a trusted key worker who may be able to help with this process and also support the adult at the meeting. Adults at Risk can bring a supporter to the meeting to assist them.

7.4.4 Every Adult Protection Case Conference should consider the views of the Adult at Risk – whether they are present or not. Every effort should be made by the Chair to ensure that the Adult at Risk's views are heard and recorded.

#### **7.5 Participation of Other Agencies and Family Members/Carers.**

7.5.1 The Case Conference is not a forum for the decisions and recommendations of the agencies involved in the investigation of the Case to be endorsed. The multi-disciplinary nature of Case Conferences means that each agency carries responsibility for decisions and recommendations.

7.5.2 Those attending should be there because they have a significant contribution to make arising from professional expertise, or knowledge of the Adult at Risk.

- 7.5.3 Carers should be included at Case Conferences as standard practice. Formal exclusion of carers/family should only occur after serious consideration of exceptional circumstances, for example the threat of, or actual, physical violence or serious disruption, or where a carer's/family's attendance is not in the best interests of the Adult at Risk or there is undue pressure.
- 7.5.4 The views of the Adult at Risk in respect of the involvement of family members or carers needs to be sought and considered. An Adult at Risk's right to privacy and confidentiality needs to be considered. If there are any details of the Adult at Risk's life that may need to be discussed as part of information sharing and risk assessment, but which the Adult at Risk's does not wish family members to be aware of, the Adult at Risk's allocated Social Worker or advocate needs to make the Chair of the Conference aware of this. An agreement can then be reached about the best way to deal with this. In some situations it may be appropriate to have a section in the Conference that family members or carers are not present for, to allow the Adult at Risk space to discuss the confidential issue. This may be particularly important if family members may dominate the Adult at Risk or seek to speak for them or where there is an issue such as domestic abuse.
- 7.5.5 The Adult at Risk and his/her family members and carers must be prepared for and fully informed of the sequence of events in advance of the Case Conference, in order to minimise anxiety and encourage fullest possible contribution.

The Chair will take responsibility for this process. This must generally involve a pre-meeting with the Adult at Risk, his/her family or carers or independent advocate.

- 7.5.6 Justification for any formal exclusion or why a section of the Conference has been held that does not include a family member or carer should be recorded in writing, and include supporting evidence.
- 7.5.7 "Restricted" information from professionals attending the Conference may sometimes be made available to a Case Conference, i.e. information that is not shared with particular participants. Participants should indicate in advance if they wish to share information in this way. The decision rests with the Chair in consultation with Police, Social Work and NHS colleagues as appropriate, and will be allowed in exceptional circumstances only, e.g. where this is considered necessary for personal safety reasons or information which may be sub judice. Any such information will be minuted separately.

## **7.6 Reports**

- 7.6.1 The allocated social worker will provide a written report for the Case Conference using [Form 7 – Report from Social Work to Case Conference](#)
- 7.6.2 A copy of the report must be with the Chair and with the minute-taker **at least 24 hours** before the Initial Conference. For review case conferences reports should be with the Chair **three working days** before the Conference.

- 7.6.3 Other agency representatives will also be asked to provide a written report. Such a request should be complied with whenever possible, and a written report **MUST** be provided if an invitee is unable to attend, using the format in [Form 8: Report from other agencies](#).
- 7.6.4 Information should clearly distinguish between fact, observation, allegation, opinion and matters proven in court.
- 7.6.5 The Allocated Social Worker will also share their report with other agency representatives invited to attend, **at least 24 hours prior** to the conference.
- 7.6.6 The Social Workers report should also be shared in advance, with the adult at risk unless there is good cause not to do so. See Section [7.4 Participation of Adult at Risk of Harm](#).

## **7.7 Risk Assessment**

- 7.7.1 In reaching a decision as to whether the adult requires a Protection Plan, the Case Conference's primary consideration is assessment of risk of harm to the adult.
- 7.7.2 Key issues in this process includes assessment of:
- c) Communication, Capacity and Involvement
  - d) Chronology of Significant Events
  - e) Current Risks or Concerns
  - f) Current Risk Description
- 7.7.3 Key Questions in Risk Assessment are:
- What behaviour or concerns have led to the situation?
  - Who is the source of concern?
  - What are Particular triggers or risky circumstances?
  - What are the Protective Factors?
  - What is the Adult at Risk's assessment of risk?
  - What is the family/carers assessment of risk?
  - Is the current living situation a safe place for the Adult at Risk?
  - What are the risks to other people?
  - Future action to be taken to reduce risks?

7.7.4 Assessment should include consideration if other household/family members are Adults at Risk.

## **7.8 Decision**

7.8.1 For an adult to be subject to a Protection Plan, the Case Conference must have clear indications that he/she has been or is at risk of harm and that a multi-disciplinary Adult Protection Plan is required. In deciding whether a Protection Plan is needed, the Conference should consider whether the Adult at Risk is at continuing risk of harm.

7.8.2 Evidence for this will include issues raised by the Investigation, the chronology the risk assessment and professional judgements.

7.8.3 Professionals attending the Case Conference have a collective responsibility to consider whether a Protection Plan is appropriate. The Chair will elicit the views of the Conference members (other than family members/carers and the Adult at Risk who is the subject) and try to achieve a consensus.

If consensus cannot be reached the Chair has the ultimate responsibility to take a decision, while recording Conference views.

7.8.4 A draft summary minute will be produced within three working days and passed to the Chair for approval.

7.8.5 Following the Chair's approval, and within **10 working days** of the Case Conference, the minute will be circulated to those persons who were involved.

7.8.6 If no comments are received by the Chair within five working days, it will be assumed that the recipients are in agreement with the minutes.

## **7.9 Protection Plan**

7.9.1 The outline Protection Plan will be agreed at the Adult Protection Case Conference and the task of the first Core Group will be to agree the detail of the Protection Plan.

7.9.2 The Adult Protection Case Conference will also identify the membership of the Core Group and the Allocated Social Worker.

7.9.3 The Protection Plan will be recorded in the format specified in [Chapter 12 \(Form 9: Protection Plan\)](#) and will be completed within two weeks of the Adult Protection Case Conference.

7.9.4 The lead professional must be a Social Worker.

7.9.5 The lead professional is responsible for:

- Coordination and motivation of the interagency Adult Protection Plan;
- Communication between agencies;
- Ensuring the full engagement of the Adult at Risk and his/her family/carers in the implementation of the Protection Plan.

## **7.10 Core Groups**

7.10.1 A Core Group is a group of identified individuals, which includes the Lead Professional Social Worker who have a crucial role to play in implementing and reviewing the Adult Protection Plan. The Core Group should include the Adult at Risk and any family member, supporter or advocate, as appropriate. The Core Group is responsible for ensuring that the Protection Plan remains focussed on reducing risk and meeting the needs of the Adult at Risk.

7.10.2 The functions of the Core Group include:

- ensuring continuing assessment of risk and need;
- implementing, monitoring and reviewing the Protection Plan;
- maintaining effective communication between all services and the Adult at Risk;
- activating contingency plans promptly when progress is not being made or risks increase;
- reporting to Review Adult Protection Case Conferences on progress and recommending earlier reviews if there needs to be any significant changes to the Protection Plan – this would include any concerns about non-engagement;
- fully involving the Adult at Risk in Core Groups' meetings.

7.10.3 The Core Group will meet within ten working days of the Case Conference and at least once per month to consider the progress of the Plan's objectives.

7.10.4 Core Group arrangements are a delegated function of the Public Protection Committee. It is important for there to be full attendance by the nominated agency representative.

7.10.5 Core Group meetings should be chaired by a Senior Social Worker and minuted by a trained minute taker. The minutes should be checked and signed by the Senior Social Worker and distributed to Core Group members within five working days of the meeting.

7.11 **Review Adult Support and Protection Case Conferences.** The first review should take place after three months and then at six monthly intervals until it is decided a Protection Plan is no longer required.

## **7.12 Transfer to or from Another Local Authority**

- 7.12.1 Where an adult who is subject to a Protection Plan in Shetland moves away to a known address in another local authority, the allocated Social Worker should inform the new area and share full information with the receiving local authority as soon as possible.
- 7.12.2 If an adult subject to a Protection Plan leaves Shetland in an unplanned way or there is any concern that they may be at risk, then Police Scotland should be informed.
- 7.12.3 If an adult subject to a Protection Plan moves to live in Shetland, then the Protection Plan developed by the originating local authority would be adopted and a review Adult Protection Case Conference be arranged to review risk within 15 working days and decide if, in the light of a move to Shetland, the adult still required a Protection Plan. Considering the Adult at Risk's care and support needs would also be important.
- 7.12.4 Records and information from the originating authority should be requested. Liaising with the Protection Nurse Adviser to ensure the transfer of medical information and information sharing would also be important.

## **7.13 Appeals Process**

- 7.13.1 There may be situations where an Adult at Risk, their carer or advocate is unhappy about the decision of an Adult Protection Case Conference or the process by which a decision was reached.
- 7.13.2 Any concern or complaint about the professional behaviour of an individual worker attending the Conference on behalf of their agency should be directed by the Chair to the appropriate agency and their Complaints Procedure.
- 7.13.3 If a decision has been taken not to invite the Adult at Risk to the Case Conference and they are not happy with this, they have a right of appeal to the Chair of the Adult Protection Case Conference. The Chair should arrange to meet with or speak to the Adult at Risk to discuss this decision and the reasons for it. Wherever possible the Chair should seek to involve the Adult at Risk by making sure their views are heard, or someone representing their view, is in attendance at the Case Conference. Or alternately the Chair should arrange for the Adult at Risk to attend part of the Case Conference. The Chair's decision will be final and should be communicated to the Adult at Risk in writing.
- 7.13.4 If the Adult at Risk (or someone acting on their behalf) wishes to appeal the decision to make the Adult at Risk subject to a Protection Plan or not to put such a plan in place, they should, in the first instance, be offered a conflict resolution discussion with the Chair of the Case Conference. If this does not resolve the issue then the formal appeal process laid down in the [Shetland Interagency Child Protection Procedures](#) should be followed.

- 7.13.5 The Chair should exercise caution in circumstances where an Adult at Risk could be under undue pressure. If the appeals process is invoked then any Protection Plan which is in place remains active until such time a Review Adult Protection Case Conference takes place and either renews or ends the Protection Plan.
- 7.13.6 One of the underpinning principles of the Adult Support and Protection (Scotland) Act 2007 is the least intervention in an adult's life and if the existence of a Protection Plan is causing distress and difficulty for an adult then this should be taken into account and discussed at a Review Adult Protection Case Conference which can be arranged earlier than would normally be the case.

## **Chapter 8: Participation, Consent and Advocacy**

### **8.1 Participation of the Adult at Risk**

8.1.1 The Adult at Risk'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 at Risk's participation are minimised.

8.1.2 The Adult at Risk should be provided with any assistance or material appropriate to their needs to enable them to make their views and wishes known. Reasonable adjustments should be made, taking account of the Adult at Risk's needs where these are identified. For example:

- communication skills or attention span;
- sensory impairment;
- the adult's first language being other than English;
- any other relevant factors.

The communication needs of the Adult at Risk should be considered, and the Adult at Risk, or their representative, should be asked what support they may require. This may include:

- a specialist in sign language or other form of non-verbal communication;
- an interpreter;
- an independent advocate;
- an Appropriate Adult where police are interviewing an adult with a mental disorder;
- a family member or carer to help communication.

8.1.3 A lack of capacity to consent to being interviewed is not an automatic bar on the Adult at Risk participating in the interview process. The principle of the adult participating 'as fully as possible' should be adhered to. In addition, if the Adult at Risk is thought to have been influenced to refuse consent, consideration should be given to whether there has been "undue pressure" applied (see [Appendix 3: Undue Pressure](#)).

8.1.4 The Adult at Risk should always be invited to attend an Adult Protection Case Conference, where required. Only in exceptional circumstances following a decision made by the Chair, may the Adult at Risk be excluded and the rationale for this must be clearly recorded in the minute for the Case Conference.

### 8.1.5 Appropriate Adults

The Council manages the local Appropriate Adult Scheme. Where a mental disorder or communication difficulty may affect the individual's ability to understand or participate in the interview process, Police may request an Appropriate Adult to facilitate communication. The request for an Appropriate Adult can be made by contacting the Adult Social Work Duty Team. The statutory guidance for Appropriate Adults is available at: [www.gov.scot/publications/appropriate-adults-guidance-local-authorities](http://www.gov.scot/publications/appropriate-adults-guidance-local-authorities) Shetland's Appropriate Adult Guidance is in [Appendix 11](#) to these Procedures.

## 8.2 Consent

8.2.1 Adults have the right to make their own decisions and choices regarding lifestyle and the lives that they lead. Therefore, the consent of the adult is generally required before anyone can intervene in their lives.

8.2.2 When intervening under these Procedures, the consent and co-operation of the Adult at Risk is very important and must be considered at all times. The Adults with Incapacity Act (Scotland) 2000 ([www.mwscot.org.uk/the-law/adults-with-incapacity-act/](http://www.mwscot.org.uk/the-law/adults-with-incapacity-act/)), the Mental Health (Care and Treatment) (Scotland) Act 2003 ([www.mwscot.org.uk/the-law/mental-health-act/](http://www.mwscot.org.uk/the-law/mental-health-act/)) and the Adult Support and Protection (Scotland) Act 2007 ([www.legislation.gov.uk/asp/2007/10/contents](http://www.legislation.gov.uk/asp/2007/10/contents)) all set out various principles to which regard must be given when exercising functions under these Acts. They all include the principle that regard must be given to the past and present wishes of the adult.

8.2.3 It is not necessary to seek consent before making an Adult Protection referral. It would be unfair to ask an Adult at Risk to give consent to an Adult Protection referral being made if the person responsible and the line manager will make a referral anyway. It is good practice to inform the adult that a referral will be made and why, as long as that will not increase the risk to the adult. Please see the [Stepwise Guidance in Chapter 6 \(Step 4\)](#).

In some circumstances, it is necessary for professionals to act immediately in order to protect someone from serious harm or to report a suspected crime without first advising the Adult at Risk that they will do so. The Adult at Risk will be advised of the action taken as soon as practicable afterwards, so long as there is no risk to the adult. Anyone proceeding on this basis must record their actions. Advice should be sought from the relevant agency's legal or professional advisers.

The Council has a duty to make inquiries under the Adult Support and Protection (Scotland) Act 2007 when it knows or believes that the person is an Adult at Risk and that they might need to intervene to protect the person. **The adult's consent is not required for the local authority to carry out inquiries although the Council should seek the adult's co-operation in accordance with the principles of the Act.**

Other public bodies such as the NHS and the Police have a duty to co-operate, insofar as is consistent with their functions, with a local authority carrying out an Investigation. This is in terms of [Section 5](#) of the Adult Support and Protection (Scotland) Act 2007. [Section 10](#) of the Adult Support and Protection (Scotland) Act 2007 places a duty on public bodies and other organisations, for example banks, to share information with a Council Officer conducting an investigation. [Section 49](#) makes it an offence not to comply with a request for information made under Section 10.

A proper exercise of a public body's functions may include being bound by a duty of confidentiality. However, it should be noted that, under Section 5(3), if the public body believes that a person is an Adult at Risk of harm, and that action needs to be taken under the Adult Support and Protection (Scotland) Act 2007 to protect them, then the facts and circumstances of the Adult at Risk should be reported to the relevant local authority. The adult's consent is not required.

#### 8.2.4 **Obtaining Consent – Who Obtains Consent?**

As noted above, consent is not required for anyone to make an Adult Protection referral and Council Officers do not need consent in order to make inquiries or to conduct an Adult Protection Investigation. However the Adult at Risk's willingness to cooperate with adult protection processes is important. They have the right not to answer questions and can refuse any support that is offered under a Protection Plan unless they lack capacity or are affected by a mental illness or disorder that may require compulsory treatment. The adult's ability to consent may also be affected by any negative influence/undue pressure – see [Appendix 3 Undue Pressure](#).

#### 8.2.5 **Capacity**

The adult must be capable of giving consent. Being incapable means incapable by reason of mental disorder or of inability to communicate because of physical disability; of

- a) acting; or
- b) making decisions; or
- c) understanding decisions; or
- d) retaining the memory of decisions.

Capacity Assessments are undertaken by a registered medical practitioner – usually a GP.

#### 8.2.6 **Informed Consent**

In order for the Adult at Risk's consent to a Protection Plan to be valid, it must be informed consent. This means they have to understand fully what they are consenting to and the implications of that consent.

It is also important for the Adult at Risk to understand fully the implications of an Adult Support and Protection investigation to enable them to decide whether or not to cooperate. The Adult at Risk must be given an explanation of the Adult Protection Procedures in a way that enables them to fully understand what is happening and why a Council Officer may need to speak

to them. The leaflet "[Keeping You Safe](#)" which gives basic information about the process of investigation and lets the adult know how their personal data will be handled should also be given by the Council Officers.

### 8.2.7 What if they say "No"?

If an adult refuses to cooperate with an investigation into their circumstances and does not wish to accept any help or support to provide protection, then their wishes must be given due regard. **However the local authority has a duty to inquire if it has reason to believe that an adult is at risk and may need intervention to protect them from harm. Council Officers should consider if the adult may be subject to undue pressure and this may be the reason they are unable to cooperate** ([see also Appendix 3 for more information on Undue Pressure](#)). Anyone proceeding without the cooperation of the Adult at Risk must record and justify that decision and should explain the decision to the Adult at Risk, except in exceptional circumstances.

### 8.2.8 Consent during the exercise of powers under the Adult Support and Protection (Scotland) Act 2007

- a) [The Adult Support and Protection \(Scotland\) Act 2007](#) seeks to balance the right of the Adult at Risk to make their own decisions and the need to intervene to protect the adult from harm. Adult Protection is a partnership between the Adult at Risk and the statutory authorities.
- b) The Council Officer carrying out an investigation under the Adult Support and Protection (Scotland) Act 2007 has certain statutory powers. In terms of [Section 7](#) the Council Officer can enter any place to conduct their inquiry, but they may not use force to effect entry. If force will be necessary then the Council Officer should seek a warrant from the Sheriff to authorise the Police to use force to effect entry.
- c) In terms of [Section 8](#) of the Adult Support and Protection (Scotland) Act 2007 the Council Officer has the right to interview any person. **However the person being interviewed can refuse to answer any questions and has to be advised of that right by the Council Officer at the beginning of the interview.**
- d) In terms of [Section 9](#) of the Adult Support and Protection (Scotland) Act 2007 a health professional may conduct a medical examination of an Adult at Risk in private. The adult has the right to refuse to be examined and must be informed of that right before any examination takes place.
- e) The question of consent is also an important consideration in deciding whether to proceed with any of the protective orders available under the Adult Support and Protection (Scotland) Act 2007. The protective orders are of limited effect if the Adult at Risk is adamant that they do not wish to co-operate with the protection being offered.
- f) For further information relating to Removal, Assessment and Banning orders please see [Chapter 10: Legal Context](#)

### 8.3. Advocacy

8.3.1 The Council has a duty, if it is considered that it needs to intervene to protect an Adult at Risk of harm, to **consider** the provision of appropriate services, including **advocacy**, to the Adult at Risk concerned, after making enquiries under the Adult Support and Protection (Scotland) Act 2007.

8.3.2 Some Adults at Risk, but not all, will:

- Lack confidence to speak up and think they are not allowed to express an opinion;
- Not be used to making choices;
- Not have information to make choices;
- Be easily intimidated;
- Not have enough time to say what they want;
- Have difficulty making themselves understood;
- Have problems with communication, social interaction and understanding.

Therefore all Adults at Risk must be given the opportunity to have a supporter with them during any investigative interviews or associated meetings.

8.3.3 To ensure this is appropriately communicated to the Adult at Risk, advocacy must be discussed with the Adult at risk. It is important to record the fact that advocacy has been discussed with the Adult at Risk and this service offered to them whether or not they choose to take it up.

8.3.4 Many people will choose a friend, family member or carer to support them. This is permissible unless the person they choose could be a perpetrator or a witness. However, even if the person has an appropriate supporter they can bring along, they must be informed of their right to Independent Advocacy and the role of an advocate must be explained to them in a way that they are likely to understand. If the person does not wish to have an Independent Advocate or other supporter in attendance, their views must be respected and recorded.

8.3.5 If someone cannot express their views, or they cannot be ascertained, this must be acknowledged. However, an Independent Advocate should still attend proceedings to ensure the person's needs are fully considered. The Advocate may be the only participant without a conflict of interest. This is in line with the principles of the Adults with Incapacity (Scotland) Act 2000. ([www.mwscot.org.uk/the-law/adults-with-incapacity-act/](http://www.mwscot.org.uk/the-law/adults-with-incapacity-act/)).

In such circumstances consideration should be given to the use of formal powers under the Adults with Incapacity (Scotland) Act 2000 to secure the person's longer-term interests. Further information can be sought from the Social Worker, and additionally Shetland Islands Council staff can seek advice from Shetland Islands Council Legal Services. See also information on [www.safershetland.com/adult-protection-for-professionals](http://www.safershetland.com/adult-protection-for-professionals). A short guide to the Adults with Incapacity (Scotland) Act 2000 can also be found at: [Adults with incapacity: guide to assessing capacity - gov.scot \(www.gov.scot\)](http://www.gov.scot) The Mental Welfare Commission also have a good practice guide at: [www.mwcscot.org.uk/publications/good-practice-guides/ \(Mental Welfare Commission\)](http://www.mwcscot.org.uk/publications/good-practice-guides/).

8.3.6 In the context of these procedures the aim of Independent Advocacy is to:

- Help people have their say;
- Add weight to a person's ideas, wishes and opinions;
- Challenge attitudes and perceptions;
- Protect people's rights.

It works by:

- Supporting people to represent themselves;
- Following the person's agenda, not the service or family's agenda;
- Acting outside the service system.

8.3.7 In a case where the person is unable to make an informed choice, or if they do not have another person to support them, an Independent Advocate must be obtained. The Independent Advocate may be in addition to someone who knows the person well and can understand how they communicate.

8.3.8 If the alleged perpetrator is considered to be an Adult at Risk, they must also be given the opportunity to have a supporter present and be informed about their right to Independent Advocacy. The same applies to any witnesses or others who are in need of support and protection in their own right. The same supporter or advocate must not be used for different people involved in the same case.

8.3.9 [VoiceAbility](http://www.voiceability.org) are the current provider of Independent Advocacy. This is an online service available via their Contact Centre Find <https://www.voiceability.org/in-scotland> and send a referral or chat to an online advocate

VoiceAbility is an independent charity and all of the services provided are free and confidential.

Independent advocacy supports an individual or group speak up for themselves. It helps people make their own decisions and have as much control as possible over their own lives.

Access to independent advocacy is available to:

- Adults with an assessed need and/or diagnosed mental disorder as defined and covered by the Mental Health (Care and Treatment) (Scotland) Act 2003 (including people who have a mental health issue, a learning disability, autism or dementia).
- Adults who are subject to intervention under the Adult Support and Protection (Scotland) Act 2007.
- Adults with an assessed need and/or lack capacity and who are subject to intervention under the Adult's with Incapacity (Scotland) Act 2000.
- Adult carers with an assessed need who are in receipt of services provided by Shetland Islands Council Community Health and Social Care Department and/or NHS Shetland may be eligible for support;

The advocate would help people understand their rights, work out their options, express their views and make decisions. Each case is assessed according to the individual's own circumstances. Where The Advocacy People identify that another organisation would better assist, they would signpost that help.

8.3.10 The Sheriff has discretion under [Section 41\(6\)](#) of the Adult Support and Protection (Scotland) Act 2007 to appoint a person to safeguard the interest of the Adult at Risk in any proceedings relating to an application to Court.

## **Chapter 9: Adult Protection Investigation and the role of the Council Officer**

### **Who can act as a Council Officer and what is their Role and Responsibilities?**

9.1 Special powers are given to a "Council Officer" in terms of the [Adult Support and Protection \(Scotland\) Act 2007](#) to enable them to make the necessary enquiries to establish whether action is required to stop or prevent harm from occurring. [Section 52\(1\)](#) of the Adult Support and Protection (Scotland) Act 2007 restricts the type of individual who may be authorised by a Council to perform Council Officer functions.

9.2 A Council Officer must be:  
Registered in the part of the Scottish Social Services Council register ([www.sssc.uk.com/registration](http://www.sssc.uk.com/registration)) maintained in respect of social workers or social service workers or is the subject of an equivalent registration

#### **OR**

Is registered as an Occupational Therapist in the register maintained under article 5 (1) (establishment and maintenance of register) of the Health Professionals Order 2001

[www.legislation.gov.uk/ukSI/2002/254/article/5/made](http://www.legislation.gov.uk/ukSI/2002/254/article/5/made)

#### **OR**

Is a Nurse Registered with the Nursing and Midwifery Council ([www.nmc.org.uk/](http://www.nmc.org.uk/))

**AND** the person has at least 12 months post qualifying experience of identifying and managing Adults at Risk. All staff in Shetland who undertake the duties of a Council Officer must have completed Level 4 Adult Support and Protection Council Officer Training.

9.3 The Code of Practice 2022 [Adult Support and Protection \(Scotland\) Act 2007: Code of Practice \(www.gov.scot\)](#) for the Adult Support and Protection (Scotland) Act 2007 states "The order also provides that authorisation to perform the functions of a Council Officer under Section 11 (assessment orders), 14 (removal Orders), 16 (right to remove Adult at Risk) or 18 (protection of moved person's property) is restricted to registered social workers, occupational therapists and nurses who have at least 12 months relevant experience. A council may withdraw the authority of a person to perform the functions of a Council Officer if the person no longer meets the relevant requirements."

The guidance points out that the Council Officer has the right of entry, to make enquiries and investigation. The Council can apply for protection orders such as Assessment Orders, Removal Orders and Banning Orders. Additionally a Council Officer has powers to protect the property of a person who has been moved by one of these orders.

#### 9.4 **Obstruction**

It is an offence to prevent or obstruct Council Officers from carrying out any court order or warrant issued under the Adult Support and Protection (Scotland) Act 2007 ([Section 49](#)).

It is also an offence under [Section 49](#) to refuse, without reasonable excuse, to comply with a request under [Section 10](#) of the Adult Support and Protection (Scotland) Act 2007 to provide information.

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

#### 9.5 **Investigations: Investigative Powers used During Inquiries**

The purpose of investigative powers under the Act is to enable the council to fulfil its obligation to conduct inquiries under Section 4. Investigative Powers under Sections 7-10 can be used:

- to determine what action is required to protect the adult from harm;
- to gather further information not already captured in order to determine whether the adult is at risk; or
- to gather further information not already gathered to determine whether further action is required to protect the adult from harm.

An Adult Protection Investigation will contain any or all of the following elements, all of which require the involvement of a Council Officer:

- a visit;
- an interview with the adult;
- a medical examination of the adult;
- the examination of records.

A combination of these actions may then lead on to an application for a protection order.

The Act states that:

- a visit may be undertaken to assist the council in conducting inquiries;
- interviews may be undertaken with any adult present during a visit;
- medical examinations and the examination of records may be undertaken when the Council Officer knows or believes the adult may be at risk of harm i.e. examinations can be undertaken as part of an inquiry but before a determination has been made as to whether or not the adult is at risk of harm;

As per Section 4, a council has a Duty to Inquire to decide whether it needs to do anything in order to protect an adult at risk of harm. That harm may relate to their wellbeing, property or financial affairs. As part of those inquiries, there are some activities - the use of investigative powers under the Act, which may only be undertaken by a Council Officer or by another person accompanying them, including visits, interviews, a medical examination, and examination of records.

Investigation activity should be carefully planned and managed to ensure that:

- i. all available information is gathered and considered
- ii. the adult is fully supported to contribute
- iii. any medical evidence and medical intervention is provided and
- iv. the police are notified if it is thought a crime may have been committed
- v. a determination can be made as to whether the adult meets the Three-Point Criteria as an Adult at Risk and
- vi. appropriate arrangements can be made for support for, and protection of, the adult, by performing functions under the Act or otherwise

#### 9.5.1 **What is the Purpose of a Visit?**

It is likely that a visit to the Adult at Risk and the interview with them will be central to adult support and protection processes, including information gathering, determination of the Three-Point Criteria, risk assessment, and determination of actions to be taken.

[Section 7](#) of the Act allows a Council Officer to enter any place and adjacent place to make the necessary investigations to:

- enable or 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 action in order to protect the adult at risk from harm.

Circumstances may arise where an interview would not be undertaken as a physical visit to meet with the Adult at Risk. The experience of the COVID-19 pandemic in 2020 and 2021 demonstrated that there are options for the use of telephone and online technology to allow for virtual meetings with both individuals and wider groups. In the context of an interview under [Section 8](#) of the Act such options should only be used if there are strong reasons to do so (largely related to safety and infection control concerns arising out of a physical visit), and these reasons should be recorded. It is reasonable to

assume that a virtual encounter with an adult thought to be at risk of harm, for the purposes of inquiring into or investigating their circumstances, should be regarded as an interview in exactly the same way as if it had been a physical encounter. This means that in such cases all the requirements of a physical visit should still be met, including the Council Officer providing evidence of their authorisation. The Council Officer's power to interview an adult found in a place being visited, is a power to interview them in private. Where such virtual meetings and interviews do take place, Council Officers should be alert to whether there may be other people in the room of the person being interviewed who may therefore be in a position to influence by word or gesture the responses from the Adult at Risk.

### 9.5.2 **What Should be Considered Prior to a Visit?**

Any person performing a function under the Act must have regard to the principles of the Act. These include whether the action is the least restrictive option necessary whilst providing benefit to the Adult at Risk. The views of the Adult at Risk, the Adult at Risk's nearest relative, primary carer, Guardian, Attorney, and others so far as relevant, must also be taken into account. If the Council considers intervention is necessary it must also have regard to the importance of providing appropriate services to the adult, for example Independent Advocacy or services to assist the adult, or other person in the household, to communicate. Consideration should be given to the relevance of provisions contained in other legislation, for example the [Adults with Incapacity \(Scotland\) Act 2000](#), the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#), or other social work, police, health, housing or regulation of care legislation.

### 9.5.3 **Who May Undertake the Visit?**

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

- allowing the Council Officer to jointly investigate concerns with, for example, a key worker, a police officer, health professional or representative from the Care Inspectorate, or Office of the Public Guardian
- assisting an assessment of the risk to the adult, such as with a general practitioner, community nurse, key worker or other person already known to the adult and any other members of the household;
- assisting in record taking of the interview, and potentially being available as a second witness in the event of court proceedings; and
- assisting communication with the adult, or any other member of the household, by ensuring if required, that the correct communication support is in place.

The relevant Senior Social Worker will agree who is the most appropriate second worker, depending on the nature of the investigation. The skill-set and profession of the second worker should be considered to maximise the outcome of the process, for example, a health professional may be able to undertake a necessary medical examination during the visit.

In circumstances where there is an indication that the Council Officer carrying out the visit may encounter resistance from the person believed to be at risk of harm or from others at the premises, including the threat of verbal or physical violence, steps should be taken to ensure that staff are protected and supported in planning and executing the visit. Reference should be made to the Council's Violence Against Staff or Lone Working policies to assess any potential risks and measures, such as staff visiting in pairs or liaising closely with the police, where necessary.

#### 9.5.4 **What places may be visited?**

[Section 7](#) of the Adult Support and Protection Act (Scotland) Act 2007 permits a Council Officer to enter any place. In the majority of cases this will mean visiting the place where the adult normally resides, for example:

- the adult's rented or owner-occupied accommodation;
- the home of relatives, friends or others with whom the person resides;
- supported or sheltered accommodation staffed by paid carers;
- temporary or homeless accommodation; or
- a care home or other care setting.

A place could also include entering premises where the person is residing temporarily or spends part of their time, for example:

- a day centre;
- a place of education, employment or other activity;
- respite residential accommodation; or
- a hospital or other medical facility.

The Council Officer is allowed access to, and can examine, all parts of the place visited which might have a bearing on the investigation into the welfare, care and safety of the Adult at Risk. This right also includes access to any adjacent places, such as sheds, garages and outbuildings.

In the case of the visited adult's place of residence, this could include all areas used by or on behalf of the Adult at Risk such as sleeping accommodation, facilities for hygiene, meal preparation areas and general living space.

#### 9.5.5 **When can a Council Officer Visit?**

[Section 36](#) makes supplementary provision for visits carried out under Part 1 of the Act. Section 36(1) states that a Council Officer may only visit a place at 'reasonable times'. The Act recognises that a balance needs to be struck between the investigation of allegations of harm and the requirement, where practicable, to fully involve the visited adult and any other individuals in the process of investigation and assessment. It may be that the visit is timed to take into account the likelihood of being able to speak to the Adult at Risk in private. However good practice would be to give notice of the proposed visit, and of the purpose of the visit, to the individual(s) concerned where this would not be prejudicial to the safety or welfare of the Adult at Risk. Professional judgement will be required as to the level and nature of the suspected risk to the visited adult and whether the adult is at risk of imminent significant harm. It is recognised that there may be times when the concern is such that an immediate visit at a time that might not otherwise be regarded as reasonable, may be reasonable in particular circumstances in order to assess the risk and, if necessary, take action to protect the individual.

#### 9.5.6 **What Evidence must a Council Officer Produce?**

A Council Officer must:

- state the object of the visit; and
- produce evidence of the Officer's authorisation to visit the place.

It is recommended that anyone supporting the Council Officer on a visit provide evidence of their professional identification, to ensure that the Adult at Risk is fully aware of the identity of each individual attending for Adult Support and Protection purposes. There is an obligation to be clear that the purpose of the visit is to investigate a suspected risk of harm. Wherever possible, other people in the household should also be offered an explanation as to what is happening and why, without breaching the adult's right to confidentiality.

Every effort should be made to ensure that any information provided is in an appropriate form that the Adult at Risk, or other person present, can understand.

#### 9.5.7 **What if Entry is Refused?**

There may be times when the Council Officer is refused entry to the premises. Where this happens, the Council Officer should initially consider how entry may be achieved, without resorting to seeking a warrant from a Sheriff authorising entry as a first course of action.

As stated in [Section 36 \(4\) of the Act](#) a Council Officer may not use force during, or in order to facilitate, a visit. Provided delay would not increase the risk to the adult, it would be good practice to have a multi-disciplinary discussion and plan to co-ordinate action by those involved before deciding

whether to apply for a warrant. Particular regard should be given to minimising distress and risk to the adult. The views of any other persons who may be concerned for the welfare of the Adult at Risk should be taken into account. Where a warrant authorising entry to premises is sought and provided, this will allow a police officer to accompany the Council Officer and to use reasonable force to fulfil the object of the visit. Contact should be made with the Legal Department if any warrants are being considered. [See Chapter 10 – Legal Context](#)



## **Chapter 10: Legal Context**

Protection is available to vulnerable people through both criminal and civil courts. Further protection is available through various other mechanisms provided that the individual's needs meet the criteria set out in the legislation. Such protection is aimed at both preventing abuse and, on occasion, taking action against the abuser. Action against the abuser is more likely to arise in the criminal courts, although a civil action for damages may be possible.

Other mechanisms available include, for example:

- Powers of Attorney: [www.publicguardian-scotland.gov.uk/power-of-attorney](http://www.publicguardian-scotland.gov.uk/power-of-attorney)
- The Adult with Incapacity (Scotland) Act 2000: [Adults with incapacity: code of practice for local authorities - gov.scot \(www.gov.scot\)](http://www.gov.scot/Adults%20with%20incapacity%3A%20code%20of%20practice%20for%20local%20authorities%20-%20gov.scot)
- The Mental Health (Care and Treatment) (Scotland) Act 2003: [www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/0/](http://www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/0/)  
[Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 2](#)  
[Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 3](#)
- Mental Welfare Commission for Scotland for good practice guides: [www.mwcscot.org.uk/publications/good-practice-guides/](http://www.mwcscot.org.uk/publications/good-practice-guides/)
- The Sexual Offences (Scotland) Act 2009: [www.legislation.gov.uk/asp/2009/9/contents](http://www.legislation.gov.uk/asp/2009/9/contents)

### **10.1 Criminal Law**

The Criminal Law in Scotland permits the prosecution of any person accused of a criminal action. In order to decide whether or not a particular circumstance or alleged offence is within the criminal law it will be necessary to liaise with the Police Scotland who will, if necessary, consult with the Procurator Fiscal in order to determine whether a prosecution is necessary. The Police undertake the investigation of crimes and report the facts and circumstances to the Procurator Fiscal. It is the Procurator Fiscal's decision whether to pursue the matter further. The Procurator Fiscal will take into account the public interest, the evidence which is available and the interest of the victim. The Procurator Fiscal will have statements provided to him from the Police and it will therefore be necessary to co-operate with the Police in such a joint investigation in order to obtain the necessary evidence.

Various crimes can be committed against vulnerable persons. Examples of these will include assault (including sexual assault), crimes of dishonesty and crime against property. More specifically there are laws in place which are intended to provide particular and further protection to people who are considered vulnerable. There are provisions in the Mental Health (Care and Treatment) (Scotland) Act 2003 which relate to crimes against people who are considered to be mentally disordered, in particular it is an offence for any

person to ill treat or wilfully neglect a person who is under their care. Sexual offences, including engaging in sexual acts with a person who lacks capacity to consent because of a mental disorder, are regulated under the [Sexual Offences \(Scotland\) Act 2009](#). Such crimes will be investigated by Police Scotland.

Criminal injuries compensation may also be available to anyone who has been the victim of a serious violent crime and it is worth remembering that such compensation may be available even if there has been no prosecution in respect of the crime in question.

## 10.2 **Civil Law**

Civil law is however, perhaps more relevant in considering whether there are other means available to protect an Adult at Risk to ensure that he or she does not become the victim of abuse in the first place.

An Adult at Risk who has been abused may have an action in damages against his or her abuser. He or she may also be able to take proceedings preventing the abuser from acting improperly or contacting him or her further. Some vulnerable people may not meet the Three Point Criteria under the Adult Support and Protection (Scotland) Act 2007 ([see Chapter 4, para 4.5](#)). Nevertheless the local authority may still regard such a person as vulnerable and as someone in need for the purposes of their general social work duties. In such a situation the local authority can provide advice and assistance to support the person in exercising their legal rights under the civil law such as in seeking an interdict under the [Protection from Harassment Act 1997](#) or the [Matrimonial Homes \(Family Protection\) \(Scotland\) Act 1981](#). This cannot extend to legal representation by the local authority.

### 10.2.1 **Human Rights Act 1998**

The [Human Rights Act 1998](#) makes it unlawful for certain public bodies to act in a way which is incompatible with a person's rights under the European Convention on Human Rights. There are several rights under the Convention which may be relevant to the actions which may be undertaken in terms of these Procedures. The most significant rights in this context are the right to life under Article 2, the right not to be subject to inhuman or degrading treatment or punishment under Article 3, and the right to respect for private and family life under Article 8. It is apparent that sometimes these rights may conflict with each other. Not all the rights are absolute, and some may be restricted proportionally to the end being sought and in accordance with the law. However it is important that everyone involved in adult protection appreciates the general need to respect the human rights of individuals involved in any protection process.

### 10.2.2 **Adult Support and Protection (Scotland) Act 2007**

[The Adult Support and Protection \(Scotland\) Act 2007](#) and [2022 Code of Practice](#) is central to the protection of Adults at Risk.

The 2007 Act provides a duty for local authorities to inquire and investigate when it appears that an Adult at Risk is at Risk of Harm. The 2007 Act also puts a duty on other public bodies such as the NHS and Police Scotland to co-operate with local authorities, who are then given powers to seek certain orders from the Court to provide protection to the Adult at Risk. Finally the 2007 Act imposes a duty to have an Adult Protection Committee to oversee the strategies developed and the implementation of those strategies for the protection of the vulnerable members of our community.

Adult Support and Protection is a function which is now under the strategic management of the Integration Joint Board in Shetland. The actual delivery of operational services remains the duty of the Council's Social Work Department in terms of the current strategic plan. Anyone with concerns about an Adult at Risk should therefore follow [Chapter 6 \(Stepwise Guide\)](#) of these procedures and refer to the Duty Social Worker.

### **Interventions Under the Adult Support and Protection (Scotland) Act 2007**

The Adult Support and Protection (Scotland) Act 2007 introduced three orders that Local Authorities can use to protect adults:

- Assessment Order
- Removal Order
- Banning order

There is further brief information below about each of these orders. Please see the detailed information in [Chapter 10](#) about situations which may require applications to be made for these orders.

#### **Assessment Order**

The Council can apply to the Sheriff for an assessment order if the Council has reasonable grounds to suspect an Adult at Risk is being or is likely to be seriously harmed and an order is necessary to establish the facts. If the person is willing to agree to an assessment there is no need for an Order. The Council must ensure that there is an available and suitable venue for the assessment to take place. The adult thought to be at risk has the right to refuse to answer any questions or to be medically examined during the assessment carried out under the Assessment Order. They also have the right to leave the place of assessment at any time.

#### **Removal Order**

The Council can apply to the Sheriff for a Removal Order if the Council considers that it is necessary to remove an Adult at Risk to prevent them from being seriously harmed. Consent is an important issue. If the adult agrees to the removal then no order is necessary. If the adult does not consent then careful consideration must be given to whether the order will achieve the aim of keeping the adult safe. The Removal Order can authorise the removal of the person against their wishes but not their detention. The adult has the right to leave the place to which they have been removed.

## **Banning Orders**

The Council can apply to the Sheriff for a Banning Order to keep a person who is or is likely to seriously harm an Adult at Risk away from that adult. A Banning Order is appropriate only when the Adult at Risk's wellbeing or property would be better protected by banning the person who poses the threat than by removing the Adult at Risk. A Banning Order can last up to six months and can be renewed. Again consent is a crucial factor. If the Adult at Risk consents to a Plan to keep them safe from the person who threatens them with serious harm then no court order is required. If the Adult at Risk has capacity but will not consent then the Sheriff can still grant the Order if they consider that the Adult at Risk has been unduly pressurised (see [Appendix 3: Undue Pressure](#)) to refuse the consent to the granting of the Order.

### **10.2.3 Adults with Incapacity (Scotland) Act 2000**

The Adults with Incapacity (Scotland) Act 2000 has provision for decision making if a mental disorder or disability means someone is unable to take or communicate decisions in important areas of his or her life. The 2000 Act applies to those who are 16 or over. The principles of the 2000 Act must be adhered to at all times when working with someone who lacks capacity.

The 2000 Act can be found here: [Adults with Incapacity \(Scotland\) Act 2000](#); and short guide can be found here: [Adults with Incapacity: Guide to assessing capacity](#).

The Code of Practice to the 2000 Act can be found here: <https://www.gov.scot/collections/adults-with-incapacity-forms-and-guidance/>

The provisions of the 2000 Act can provide protection for an adult's property, financial affairs and welfare. However, it is important to remember that not all vulnerable people can be regarded as "incapacitated" under the 2000 Act. The 2000 Act **only** applies to those who lack the capacity to make the decisions required.

This section provides a brief outline of some of the interventions available under the 2000 Act. If an Adult at Risk lacks capacity, reference should be made to the appropriate agency's policies and procedures on the 2000 Act. Advice and guidance on the general application of the 2000 Act can be sought from Shetland Islands Council via Adult Duty Social Work.

### **Interventions available under the Adults with Incapacity (Scotland) Act 2000:**

#### **Power of Attorney**

An Adult at Risk may be able to grant a Power of Attorney over their affairs to other people, provided that when doing so the Adult at Risk is legally capable of granting such a power of attorney. The Adult at Risk would have to seek their own independent legal advice to create and register a Power of Attorney. The Office of the Public Guardian also gives advice on making a Power of Attorney:

[www.publicguardian-scotland.gov.uk/power-of-attorney](http://www.publicguardian-scotland.gov.uk/power-of-attorney).

### **Financial and Welfare Guardianship Order**

A Guardianship Order can be granted by the Sheriff to give powers to a Guardian to make decisions on behalf of an adult who lacks capacity in relation to their property and financial affairs and/or welfare. A Guardianship Order is one of the most restrictive means of dealing with an adult's affairs and should only be used when there is no other option. Guardianships should be used when an adult has complex and ongoing needs which means significant decisions need to be made on their behalf.

### **Intervention Orders**

An Intervention Order can be granted by the Sheriff to give powers to a suitable adult to carry out a specific action in relation to the property and financial affairs and/or welfare of an adult who lacks capacity. An Intervention Order is suitable when there is a need to deal with a single issue on behalf of an adult where the outcome can be predicted.

#### **10.2.4 Mental Health (Care and Treatment) (Scotland) Act 2003**

The Mental Health (Care and Treatment) (Scotland) Act 2003 contains powers and duties in relation to people with a mental disorder. The definition of mental disorder includes:

- A mental illness
- A learning disability
- A personality disorder

The Mental Health (Care and Treatment) (Scotland) Act 2003 can be found at: [www.mwcscot.org.uk/the-law/mental-health-act/](http://www.mwcscot.org.uk/the-law/mental-health-act/) and related Codes of Practice can be found at:

Volume 1: <https://www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/0/>

Volume 2: [Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 2](#)

Volume 3: [Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 3](#)

Where an Adult at Risk has a mental disorder it may be more appropriate for them to be managed under the 2003 Act, rather than the Adult Support and Protection Procedures. However, specific criteria and the principles of the 2003 Act must be met in order for the Act to be invoked. There will be situations where an individual has a mental disorder but they do not meet the criteria or principles. For example, they cannot be admitted to hospital under a Short Term Detention Certificate because they are not at significant risk or their decision-making about medical treatment is not impaired or being detained would not be the 'least restrictive alternative' to address their situation.

The 2003 Act also provides considerable rights and protection for individuals with a mental disorder. These must be taken into consideration if any action is being considered under the Act. In terms of this legislation affected adults are automatically entitled to access Independent Advocacy services and

may have an Advance Statement, for example, the person's Advance Statement if they have one.

Mental Health Officers have a significant and pivotal role in most intervention taken under the 2003 Act. It would therefore be good practice to involve a Mental Health Officer at the earliest opportunity, if a person is thought to have a mental disorder and it is uncertain which route should be followed.

### **Intervention under the Mental Health (Care and Treatment) (Scotland) Act 2003 includes:**

#### **Emergency Detention Certificate**

Where a person is unwell and a doctor deems they urgently need care and treatment for their mental disorder they can be detained and admitted to hospital under an Emergency Detention Certificate. A doctor has to seek consent from a Mental Health Officer, unless there is a valid reason for not doing so.

An Emergency Detention Certificate should only be used as a last resort as it is more restrictive, and affords the individual fewer rights than other forms of detention. It may be used where a situation is so extremely urgent that there is no alternative, or where a situation cannot wait for an Approved Medical Practitioner (i.e. a Psychiatrist approved under the 2003 Act) to assess.

#### **Short Term Detention Certificate**

A doctor approved under the 2003 Act can admit and detain a person to hospital against their will if they have a mental disorder, are at significant risk and meet the other criteria of this section and the principles of the act. A Short Term Detention Certificate cannot proceed without consent being sought from a Mental Health Officer.

#### **Compulsory Treatment Order**

Where there is a need for longer-term care and treatment a Mental Health Officer can make an application to the Mental Health Tribunal for Scotland, along with two doctors' reports (one of which must be from an approved medical practitioner) for a Compulsory Treatment Order – either hospital or community based.

#### **Removal to a Place of Safety**

A Police Officer can remove a person to a place of safety if they are in a public place; appear to have a mental disorder and appear to be in need of immediate care and treatment.

### **10.2.5 The National Assistance Act 1948**

Under the Act, there is a duty to protect the moveable property of any person admitted to hospital or residential care when the person is unable to protect his or her property and no other arrangement has been made. A local authority is obliged to take steps to prevent damage or loss to the patient's property. The Adult at Risk's property is thus protected in this way.

### 10.3 Independent Legal Advice

It is important to remember that all Adults at Risk have the right to seek their own independent legal advice. It may be that they wish to consider legal action against someone to ensure their own protection. Actions may include an interdict to prevent someone from doing a particular thing or action under the Protection from Harassment Act 1997. The 1997 Act states that every individual has a right to be free from harassment and provides a variety of remedies including damages, interdict and Non-Harassment Orders.

### 10.4 Vulnerable Witnesses

The Vulnerable Witnesses (Scotland) Act 2004 <https://www.legislation.gov.uk/asp/2004/3/contents> aims to improve conditions for vulnerable witnesses by increasing the number of support measures available to help them participate more fully in criminal and any civil court proceedings.

The definition of “vulnerable witness” includes anyone where there is a significant risk that the quality of their evidence may be diminished by reason of fear or distress in connection with giving evidence at the trial. This will enable the court to take into account the wider circumstances of the case, such as the nature of the evidence the witness will give, and any relationship between the witness and the accused.

### 10.5 Duty to Investigate/Make Enquiries

Where there is a suspicion that an Adult at Risk is at risk of harm, the process set out in these Procedures will be followed. However, there are statutory powers to investigate in particular circumstances that may be applicable depending on the facts of the case.

#### **Duty to investigate in terms of:**

- a) [The Adult Support and Protection \(Scotland\) Act 2007](#) and its Code of Practice 2022 [www.gov.scot/publications/adult-support-protection-scotland-act-2007-code-practice-3](http://www.gov.scot/publications/adult-support-protection-scotland-act-2007-code-practice-3)

**Local authorities have a duty to make inquiries about a person’s well-being, property or financial affairs if it knows or believes that the person is an Adult at Risk and that they might need to intervene to protect the person.** Certain public bodies such as NHS Shetland and Police Scotland have a statutory duty to co-operate with the Council when carrying out such an inquiry. This duty is recognised by the development of the joint approach embodied in this Policy.

Special powers are given to a “[Council Officer](#)” ([See Chapter 9](#)) in terms of the Adult Support and Protection (Scotland) Act 2007 to enable them to carry out any investigations.

- b) The [Adults With Incapacity \(Scotland\) Act 2000](#) and its Code of Practice: [www.gov.scot/publications/adults-incapacity-scotland-act-2000-code-practice-local-authorities-exercising-functions-under-2000-act](http://www.gov.scot/publications/adults-incapacity-scotland-act-2000-code-practice-local-authorities-exercising-functions-under-2000-act) and its short guide to assessing capacity:

[www.gov.scot/publications/adults-incapacity-scotland-act-2000-communication-assessing-capacity-guide-social-work-health-care-staff/pages/1/](http://www.gov.scot/publications/adults-incapacity-scotland-act-2000-communication-assessing-capacity-guide-social-work-health-care-staff/pages/1/).

Local Authorities supervise welfare guardians and investigate complaints about welfare attorneys and other people operating welfare powers under the Adults with Incapacity (Scotland) Act 2000 (the 2000 Act). They may also investigate any circumstances made known to them in which the personal welfare of an adult seems to them to be at risk. A local authority can take action under the 2000 Act only if its investigations reveal an adult lacks capacity in relation to the matter in question.

The Public Guardian ([www.publicguardian-scotland.gov.uk/power-of-attorney](http://www.publicguardian-scotland.gov.uk/power-of-attorney)) supervises financial guardians and investigates complaints about attorneys and others operating the financial provisions of the 2000 Act. The Public Guardian has a specific duty to investigate whenever she/he becomes aware that the property or financial affairs of an adult may be at risk.

If the investigation reveals cause for concern, the Public Guardian may do what she/he thinks necessary to safeguard the property or financial affairs of the adult. Local Authorities and the Mental Welfare Commission [www.mwcscot.org.uk/publications/good-practice-guides/](http://www.mwcscot.org.uk/publications/good-practice-guides/) should co-operate with the Public Guardian's investigation. If the investigation reveals welfare concerns, the Public Guardian passes these on to the local authority.

**c) Duty of a Local Authority to Inquire under the Mental Health (Care and Treatment) (Scotland) Act 2003**

The Local Authority has a duty to inquire into an adult's (aged over 16) circumstances, under the Mental Health (Care and Treatment) (Scotland) Act 2003, (the 2003 Act) where they appear to have a mental disorder, are living in the community and:

- May be experiencing ill treatment or neglect;
- His/her property may be at risk of loss or damage;
- She/he may be living alone or without support and may be unable to look after him/herself, his/her property or financial affairs;
- The safety of another person may be at risk.

A Mental Health Officer can apply for a warrant where entry to premises, access to medical records or medical examination is necessary but access has been, or is likely to be, denied.

In addition, the Mental Health Officer can apply for an order to remove a person to a place of safety.

Where an individual meets the above criteria, it would be more appropriate for their situation to be investigated via the statutory provisions of the 2003 Act rather than under the Adult Protection Procedures.

The Mental Health (Care and Treatment) (Scotland) Act 2003 can be found at:

[www.mwcscot.org.uk/the-law/mental-health-act/](http://www.mwcscot.org.uk/the-law/mental-health-act/)

and its Codes of Practice:

Volume 1: <https://www.gov.scot/publications/mental-health-care-treatment-scotland-act-2003-code-practice-volume-1/pages/0/>

Volume 2: [Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 2](#)

Volume 3: [Mental Health \(care and treatment\)\(Scotland\) Act 2003: Code of Practice Volume 3](#)

## Chapter 11: Medicals

### 12.1 Introduction

[Section 9](#) of the Adult Support and Protection (Scotland) Act 2007 allows health professionals (i.e. doctors or nurses) to carry out private medical examinations on adults who are known or are believed to be at risk. A medical examination can take place either at a place being visited under [Section 7](#) of the Adult Support and Protection (Scotland) Act 2007 or at the premises where an adult has been taken under an Assessment Order granted under [Section 11](#). A medical examination includes any physical, psychological or psychiatric assessment or examination.

### 12.2 **A medical assessment may be a necessary component of an Adult Protection Investigation for the following reasons:**

- The adult's need of immediate medical treatment for a physical illness, injury or mental disorder;
- To provide evidence of harm to inform a criminal prosecution or action to safeguard an adult;
- To assess physical health needs;
- To assess the adult's mental capacity.

12.3 Subjecting an adult to a medical examination requires serious consideration especially if they lack capacity to make informed decisions about their future care. The guiding principles governing intervention should be the current safety and wellbeing of the adult and their future safety and development.

### 12.4 Consent

12.4.1 Consent must be obtained from the adult prior to a medical assessment by the GP. If the adult lacks capacity to make informed decisions about consenting to an assessment, consent should be obtained from their Welfare Guardian or Welfare Power of Attorney. If there is no Welfare Guardian or Power of Attorney, a Mental Health Officer should be consulted and consideration given to whether any provisions in the [Adults With Incapacity \(Scotland\) Act 2000](#) or the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) apply.

12.4.2 If there is no Welfare Guardian or Welfare Power of Attorney, or they are not available, or they are alleged perpetrators or are suspected of colluding with alleged perpetrators, an Assessment Order may be applied for (see [Chapter 10: Legal Context](#)). An Assessment Order may also be applied for if there is a Welfare Guardian or Power of Attorney and they are refusing permission for a medical examination to take place, or if it is suspected that the adult has made the decision not to participate in a medical examination due to undue pressure (see [Appendix 3 Undue Pressure](#)).

12.4.3 **A person is not obliged to answer any questions put to him/her and must be informed of his or her right to refuse prior to a medical examination being carried out.** If there are concerns that an adult has not understood the question, inquiries should be made to ensure whether there is a Welfare Guardian or Power of Attorney who should be contacted for consent. In a forensic medical examination Police may consider the use of an Appropriate Adult who could inform regarding consent. Regardless of whether the medical examination is carried out by a Police Doctor or a GP it is the responsibility of the Medical Practitioner to be satisfied that the Adult at Risk has consented or at least has no resistance to the examination.

## 12.5 Procedure

12.5.1 If an Adult at Risk requires immediate medical treatment this must be sought without delay. The medical staff should be informed of any known history and that their findings may have forensic significance.

12.5.2 Council Officers and other non-medical staff must not carry out medical examinations. However it is acceptable, when injuries and/or bruises are obvious, to assess whether these are consistent with any explanation provided. Absence of physical signs should not be taken as conclusive evidence that no harm has taken place.

12.5.3 If an Adult at Risk has an injury that does not require immediate treatment, he or she should be subject to an interview prior to any medical examination. This will enable the investigating officers to assess whether or not a medical is necessary.

12.5.4 A joint decision will be made regarding the necessity for a medical examination except where a crime has been committed. Decisions will be made in relation to:

- the need for the medical examination;
- the purpose of the medical examination;
- the type of medical examination;
- who should conduct the medical examination;
- where it should take place;
- when it should take place;

12.5.5 If, after a joint investigation, the Police decide not to commission a specialist medical examination, but the Council Officer believes one is necessary, the Council Officer should discuss this with their Line Manager immediately.

12.5.6 Forensic medical examinations usually take place under the following circumstances if:

- it is believed that an adult has sustained a non-accidental injury;
- there is concern regarding sexual harm and there is the likelihood that physical evidence may be present;
- the adult has injuries where the explanation, from the Adult at Risk or other person, is inconsistent with the injuries and an examination may provide a medical opinion as to whether or not harm has been perpetrated;
- the adult appears to have been subject to neglect or self-neglect;
- the adult is ill or injured and no treatment has previously been sought.

12.5.7 Sexual harm medical assessments will only be conducted by registered medical practitioners who are appropriately qualified and skilled. They will be forensic medical examiners contracted by the Police.

12.5.8 The Council Officer will not be present when the adult is being examined. The adult may have someone else accompany them during a forensic medical examination as long as that person is not an alleged perpetrator.

12.5.9 It is the responsibility of the Police to co-ordinate forensic medical examinations. In cases of serious sexual offences Police Officers should follow the 'Scottish Investigators Guide to Serious Sexual Offences'.

12.5.10 Following a forensic medical examination, the forensic medical examiner should provide a hand written interim report of their findings.

12.5.11 Some medical examinations can be arranged by the Council Officer with the adult's GP. This would be appropriate if, for example, an adult has been injured and there is no real evidence at that stage that the injury is non-accidental. The consent requirements remain. If, after examination, the GP believes that injuries are non-accidental, the Police should be contacted immediately for further discussion.

12.6 A medical professional is defined under [Section 52\(2\)](#) of the Adult Support and Protection (Scotland) Act 2007 as:

- A Doctor
- A Nurse
- A Midwife
- Or any other type of individual described by order made by Scottish Ministers.

*NB: If at the Immediate Response stage, the Adult at Risk has an obvious injury, action should be taken as indicated under [Chapter 6: Stepwise Guide for Adult Protection Procedures](#), see [Step 3](#).*

## Chapter 12: Forms and Leaflets

### INDEX OF FORMS:

[Form ASP 1: NHS Shetland Referral to Social Work](#)

[Form ASP 2: SIC and other agencies \(non-NHS\) Referral to Social Work](#)

[Form 3 Social Work Duty To Inquire](#)

[Form 4 Record of Action](#)

[Form 6: Standing Agenda for Adult Protection Case Conference](#)

[Form 7: Report from Social Work for Adult at Risk Case Conference](#)

[Form 8: Report from Agencies Other than Social Work for an Adult At Risk Case Conference](#)

[Form 9: Protection Plan](#)

### FURTHER INFORMATION AND LEAFLETS:

For information leaflets about attending Adult Protection Case Conferences in easy-read format, please see: <https://www.safershetland.com/resources/resource-library/understanding-case-conferences>

Professionals can find further information at:

<http://www.safershetland.com/adult-protection-for-professionals>

[Keeping You Safe - Leaflet](#)

**NHS Shetland – Adult at Risk  
Referral to Social Work service**

Please also send a copy of this form, when completed, to the Protection  
Nurse Adviser

**NB do not use this form if this is a request for assessment of need and access  
to services**

To:..... Name: .....

Address: .....

**I refer for your attention**

Name: ..... Date of Birth:.....

Address: .....

Parent/Family/Carer Address if different from above: .....

Telephone Number: .....

Name of General Practitioner: .....

Telephone Number: .....

Name of Community Nurse: .....

Address of Community Nurse: .....

Telephone Number: .....

**Account of Circumstances Leading to Referral**

**From Referrer:**

.....  
.....  
.....  
.....

Name: ..... Position: ..... Date: .....

**Please attach a copy of your agency’s chronology (if available)**

## Shetland Islands Council and Other Agencies

### Adult at Risk – Referral to Social Work Service

NB do not use this form if this is a request for assessment of need and access to services

Referring Agency (delete as appropriate):

Shetland Islands Council\*

Schools' Service\*

Housing Services\*

Other Shetland Islands Council department or service (please state)\*

Other organisation (please state)\*

### Adult At Risk

**CONFIDENTIAL**

**To:** Duty Senior Social Worker, Community Care Adult Social Work

**Copy to:** Referrer's Head of Appropriate Department/Organisation

(\*delete as appropriate)

Designated Person for Referrer's Organisation (please state):

**From:** Referrer Name, Designation/post held and name and address

**Adult's Name:**

**Date of Birth:**

**Address:**

**Name and Address of Carer/Family Member:**

**Date and time of initial contact with member of staff:**

**Reasons for concern:**

(clearly indicate whether this refers to an incident, suspicion or allegation by the adult at risk)

**Date and time of contact with the Adult Duty Social Work service:**

**Advice received from the Adult Duty Social Work service:**

**Any other comments:**

Signed: ..... Date: .....

Please attach a copy of your agency's chronology (if available)



*Adult Social Work*  
***Duty to Inquire & Record of Action***  
*Adult Support and Protection*

**Duty to Inquire is to be completed by a Social Worker when an Adult Protection or Adult Concern referral is received.**

<b>Referral</b>	<b>Date:</b>	<b>Time:</b>	<b>Method:</b>
-----------------	--------------	--------------	----------------

<b>Referrer:</b>	
Name:	
Address:	
Contact Details:	
Relationship to adult:	

Name of Social Worker completing the form and date, please confirm if allocated Social Worker or Duty Social Worker:

<b>Adult referred:</b>	<b>DOB:</b>	<b>Gender:</b>	<b>Swift No:</b>	<b>Home Address:</b>	<b>Consent/views sought?</b>

<b>First Language:</b>	<b>Additional Support Needs:</b>	<b>Preferred communication method?</b>
<b>Ethnic Origin:</b>	<b>Religion:</b>	<b>Capacity?</b>

**Legal Framework – POA / Welfare/Financial Guardianship / DWP appointee in place and who undertakes this role:**

<b>Family composition &amp; address:</b>	<b>DOB:</b>	<b>Relationship to referred adult:</b>	<b>Gender:</b>	<b>Swift No:</b>	<b>Contact numbers/emails</b>

**Date of Incident or details of concern indicating pattern of possible risk (please include details of the alleged perpetrator if known):**

<b>Category of Referral as assessed by Social Worker:</b>	<b>Please tick all that apply</b>
<b>Physical Harm</b>	
<b>Sexual Harm</b>	
<b>Neglect + Acts of Omission</b>	
<b>Emotional/Psychological Harm</b>	
<b>Financial or Material Harm</b>	
<b>Harm to self</b>	
<b>Self Neglect</b>	
<b>Domestic Abuse</b>	
<b>Discriminatory Harm</b>	
<b>Human Trafficking and/or Exploitation</b>	
<b>Other - please state</b>	

<b><u>Section 4 checks</u></b>	<b>Known to service?</b>	<b>Date check completed</b>
Social Work records (including previous Adult support and Protection referrals/concerns)		
Police		
Protection nurse Adviser (GP, Community Mental Health Team, Other Health – please specify).		
Substance Misuse Recovery Service		
Housing		
Care Services and keyworker		
Other (Please specify)		
<b>Referred 3 or more times in past 6 months?</b>	<b>If yes, details:</b>	

**Summary of Previous Social Work Involvement**  
e.g. dates / previous AP / Outcome, etc

--

**Initial Risk assessment and any actions required to manage immediate risk:**

--

**Outcome of inquiries and Assessment of three point criteria. Please also advise if investigatory powers were used to gather information.**

--

Please discuss the outcome of inquiries with a Senior Social Worker. If an IRD is required, this is done via the following inbox:

[HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk](mailto:HighlandandIslandsInterAgencyReferralDiscussion@scotland.police.uk)

If a large scale investigation IRD is required, this is done via the following inbox:

[Highlandislandsconcernhub@scotland.police.uk](mailto:Highlandislandsconcernhub@scotland.police.uk)

**Record of action taken – Adult Support and Protection**

**Record of Action taken should be completed by a Social Worker once a decision is made to proceed to Inter-Agency Referral Discussion**

**Where the Three-Point Criteria are met, a chronology must be initiated, or if a chronology is already in place, it must be updated by the Social Worker. Has this been completed/updated and saved in the client file – Yes, No or Not applicable?**

<b>Interagency Referral Discussion:</b>	
<b>Date:</b>	<b>Time:</b>
<b>Present</b>	

**Note of Meeting: Including agreed next steps and actions**

**Requirement for Debrief IRD? Y/N**  
**Requirement for medical? Y/N (If Y who is responsible for arranging?)**

**Updated Risk Assessment and risk management plan - who will carry out actions to reduce risk - note any changes required following IRD/ASP Professionals meeting**

**Inquiry using Investigatory Powers**

**Details of Council Officer Visits and interviews ( section 7 and 8 ASP Act)**

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<b>Debrief IRD Date:</b>	<b>Time:</b>
--------------------------	--------------

<b>Attendees:</b>	<b>Agency:</b>	<b>Role, ie chair, lead interview, 2<sup>nd</sup> interview:</b>

**Note Of Meeting, Joint Decisions and Agreed Actions: Decision re Adult Protection Case Conference and rationale for decision**

--

<b>Has the referrer/care services/allocated social worker been informed of the outcome? Y/N</b>
<b>If not informed why not?</b>

<b>Senior Social Worker</b>	
Name:	Signature:
Date:	

<b>Quality Assurance Check</b>
If DTI/ROA is selected for QA to complete this box

## **Standing Agenda for Adult Protection Case Conferences**

### **Pre-Conference**

Written reports from the social worker or any other agency should be with the Chair and the minute taker of the conference at least 24 hours before the conference. It is good practice that report writers will share the contents of the report with the Adult at Risk and any family members with whom it may be appropriate to share information prior to the conference.

The Social Worker should agree with the Chair:

- How the view of the Adult at Risk of harm will be represented and if the adult is attending the meeting, bringing a supporter or advocate or if a carer or relative will attend and speak on their behalf.
- If the Adult at Risk of harm needs any additional support to express their views- e.g. communication book, hearing loop, translator, makaton or someone who can sign to assist communication.
- If the venue of the conference is accessible to the adult or any supporter/carers who are attending.
- If the Adult at Risk, their carers, family members, supporter or advocate wishes to meet the Chair before the meeting.
- Where and when reports are read by professionals attending the meeting. It is better practice to invite professional to come 15 minutes early and sit in another room to read reports and then join the Chair and Adult at Risk in the room where the conference will be held.
- Does the Chair need to consider excluding anyone? This should only occur after serious consideration of exceptional circumstances for example the threat of, or actual, physical violence or serious disruption or where a carer's/family's attendance is not in the best interests of the Adult at Risk.
- Is any professional requesting a confidential section of the Conference in order to share restricted information?

### **Adult Protection Case Conferences**

Guidance about adult protection case conferences is contained in [Chapter 7](#) of the 2016 Shetland Interagency Adult Protection Procedures.

It is good practice for the Chair to recap at key points in the conference to ensure facilitation of minute taking and to aid clarity for all attending.

AGENDA	PROMPT
1 Welcome	Check any communication/support systems have been provided and are working.
2 Introductions	<p>Each person should state their role, agency (where appropriate) and contact with the Adult at Risk of harm.</p> <p>A particular welcome and introduction of the Adult at Risk if they are present and an acknowledgment of the challenge it may be for them to be at a meeting that will discuss some difficult issues in their life.</p>
<p>3 Apologies and Housekeeping</p> <p>Views of the Adult at Risk</p>	<p>Identify if a written submission of views have been sent and when may be the best point in the meeting to consider them.</p> <p>If the Adult at Risk is not present note for the minute why they are not present and what arrangements are in place to be able to hear and consider their views.</p>
4 Identify exclusions and state reasons	Identify if the Adult, any individual, or agency has excluded themselves or been excluded by the Chair for part or all of the meeting. Identify the person and note reasons.
5 Information and Confidentiality	Be clear about whether anyone attending can take copies of the reports provided for the meeting or not? Will reports be sent out with the minutes?
<p>6 Give a synopsis of the purpose of the case conference</p> <p><a href="#">See Chapter 7, Paragraph 7.2 of these Procedures</a></p>	<p>Purpose of an <b>initial</b> conference is to:</p> <ul style="list-style-type: none"> <li>• To gather together the Adult at Risk, appropriate members of the family/carers and the relevant agencies to share and assess information collated during an Adult at Risk investigation and to consider other relevant background information;</li> <li>• To determine risk and enable multi-agency consideration of cumulative concerns;</li> <li>• To formulate or provide the framework for the development of a Protection Plan, if that is required, which includes consideration of necessary support services;</li> <li>• To agree a support plan if this is more appropriate.</li> </ul> <p>Purpose of a <b>review</b> case conference</p> <ul style="list-style-type: none"> <li>• To review the circumstances of the Adult at Risk and the effectiveness of the Protection Plan;</li> </ul>

AGENDA	PROMPT
	<ul style="list-style-type: none"> <li>• To consider if the Adult at Risk continues to be at risk. This may require review of three-point criteria;</li> <li>• To amend the Protection Plan if necessary.</li> </ul>
7 Facility to ask for a break/adjournment	
8 Investigating Officers report, findings and actions to date	Reports should already have been read. If reports cannot be shared for legitimate reasons this should be recorded.
9 Chair introduces any other reports from participating agencies	Includes any written or verbal submissions. Report writers if present can speak to their report briefly
10 Views of the Adult at Risk of harm	Done at this stage as their view may be augmented by the views of others. Views can be expressed by themselves, an advocacy worker or representative nominated by them
11 Views of carers/relevant others	
12 Appraise received information, opinions and assessment of risk <a href="#">see Chapter 7, Paragraph 7.7 of these Procedures re Risk Assessment</a>	<p>Factors to consider:</p> <ul style="list-style-type: none"> <li>• Communication, capacity and involvement.</li> <li>• Chronology of significant event.</li> <li>• Current risks or concern.</li> <li>• What behaviours/concerns have led to the situation?</li> <li>• Who is the source of harm/concern?</li> <li>• Particular triggers of risky situations?</li> <li>• Protective factors.</li> <li>• What is the Adult's own assessment of risk?</li> <li>• What is the family/carers assessment of risk?</li> <li>• Is the current living situation safe for the Adult?</li> <li>• Risks to other people.</li> <li>• Future action to be taken to reduce risk.</li> <li>• Are there any other adults at risk of harm in the household/other family members?</li> </ul>
13 Agree Adult Support and Protection plan – is this required?	<p>Actions required by whom and when and within what timescale.</p> <p>What outcome do we want for the Adult at Risk and what needs to change to achieve that outcome?</p>
14 Legal Views and requirement for any legal action	<p>A representative from Shetlands Islands Council Legal Services should normally be present. However if they are not present it is still important to consider the need for any action under the Adult Support and Protection Act, Adults with Incapacity and the Mental Health</p>

<b>AGENDA</b>	<b>PROMPT</b>
	Act. If professionals think that legal action or advice may be required and no legal representative is present then it should be agreed who will consult with Legal Services and when that will be done. This may need to be immediate if high risks have been identified by the Case Conference.
15 Core Groups and date for first Core group meeting	Identify those to be involved and lead person who will usually be the allocated social worker.
16 Clarify if everyone understands what is happening and any questions	
17 Summary of decisions and record any dissent	List decisions and those responsible
18 Confirm communication strategy	Who are minutes and the Protection Plan to be sent to?
19 Arrange date for review conference	Three months and then six months
20 Thank all who have attended and ensure plans are in place for Adult's safe return home.	
21 Ensure that any reports are collected back in and either destroyed or passed to the minute taker to send out with minutes	

## Report from Social Work for Adult at Risk Case Conference

<b>Date of Conference:</b>	
<b>Name of Adult:</b>	<b>Home Address:</b>
<b>DOB:</b>	<b>Address of Current Placement:</b>
<b>Date of Incident:</b>	<b>Type of Current Placement:</b>

<b>Carer/Family Composition:</b>				
Name	Relationship	Age & DOB	Address	Carer?

<b>Referral:</b>			
Date	Time	Method	Source

<b>Consultation/Planning:</b>
<b>Action Taken:</b>
<b>Risk Assessment</b> (follow format of Framework for Risk Assessment –Adult at Risk):
<b>Recommendation:</b>

<b>Signature:</b>		<b>Signature (SSW/EM):</b>	
<b>Name:</b>		<b>Name:</b>	
<b>Designation:</b>		<b>Designation:</b>	
<b>Date:</b>		<b>Date:</b>	

**Format for Reports for Case Conferences  
from Agencies other than Social Work**

**1. Report for Adult at Risk Case Conference for:**

To be held on: .....

Report from (Name and Designation):

.....

Initial / Review – please delete

**2. Family Composition**

Name	Date of Birth	Relationship to Adult	Address

**3. Cause for concern including:**

(a) Any precipitating incident

(b) Any previous concerns

**4. Relevant Family History/Chronology**

(Please include here relevant information from your services that potentially affects the Adult)

Form 8

**5. Past and present involvement regarding:**

[Name and Date of Birth of Adult]

**From:**

[Your name and professional role]

**For case conference on:**

[Date]

Please provide information relevant to your services specific to the Adult. Please contribute any information you have that will help build up a picture of the Adult's circumstances. Include any strengths, and any areas where further support may be needed. Consider in particular any potential areas of risk.

**6. Summary Statements/Analysis**

**a)** Risk Factors

**b)** Protective Factors

**7. Adult's View of your Report**

**8. Signed:** .....

**Date:** .....

## PROTECTION PLAN

This form must be used when allegations of abuse/exploitation have been made and an Adult Protection Case Conference has agreed that there is a risk of abuse or harm; or when high levels of risk cannot be managed within a normal Care Plan. The Protection Plan should be completed within two weeks of an Adult Protection Case Conference.

<b>DATE OF PROTECTION PLAN:</b>
---------------------------------

### 1. PERSONAL DETAILS – ADULT AT RISK

<b>First Names:</b>		<b>Surname:</b>	
<b>Date of Birth:</b>			
<b>SWIFT No:</b>		<b>CHI No:</b>	

### 2. AGENCY/STAFF INVOLVEMENT

<b>Agency/staff involved in risk management, co-ordination and review</b>	
<b>Lead Worker's Name</b>	<b>Post and Agency</b>
<b>Names of Core Group Members</b>	<b>Post and Agency</b>

**3. ACTIONS**Date: 

<b>SUPPORT AND PROTECTIVE SERVICES</b>			
<p>Actions and Roles, which define services to be in place and procedures to be followed, with responsibilities, timescales and outcomes identified involving service users, carers, members of the core group and all other agencies involved in the Protection Plan. These should include immediate or longer-term actions; both benefit enhancing and harm-reducing measures, and roles of services, the adult, advocates, unpaid carers, attorneys and guardians, as appropriate.</p>			
<b>Actions and Roles</b>	<b>Responsibility</b>	<b>Timescales/ Deadlines</b>	<b>Intended Outcomes</b>
<b>a) Support, treatment, therapy</b> (specify services)			
<b>b) Control measures</b> (including any legal action)			
<b>c) Direct contact with person</b>			
<b>d) Risk management with perpetrator</b>			
<b>e) Information sharing arrangements</b>			
<b>f) Risk management coordination</b>			
<b>g) Other Actions</b>			

**4. VIEWS AND ROLES OF ADULT AT RISK AND OTHERS**

Date:

<b>Adult's view of Protection Plan:</b>
<b>Advocate's View of Protection Plan:</b>
<b>Unpaid Carer/s view/s of Protection Plan:</b>
<b>Guardian/Attorney's view/s of Protection Plan:</b>
<b>Agencies dissenting from Protection Plan:</b>

**5. CONTINGENCY PLAN** (identify significant changes which might occur and what additional or alternative action should be taken in that event, such as case conference or legal action)

<b>Identify significant changes which might occur.</b>	<b>What additional or alternative action should be taken in that event?</b>	<b>Responsibility</b>

**6. DISTRIBUTION OF PROTECTION PLAN**

(Distribution to be identified which takes account of confidentiality and third party information issues)

<b>Person/Agency</b>	<b>Name and Designation</b>	<b>Sent copy of Protection Plan (date, or N/A)</b>
<b>Adult at Risk</b>		
<b>Nearest relative/carer</b>		
<b>Named Person</b>		
<b>Advocate</b>		
<b>Social Work staff</b>		
<b>Support Agency</b>		
<b>Community Health</b>		
<b>G.P</b>		
<b>Consultant</b>		
<b>Police</b>		
<b>Housing</b>		
<b>Legal Representative</b>		
<b>Attorney/Guardian</b>		
<b>Others</b>		

**7. REVIEW ARRANGEMENTS**

<b>Review Date:</b>	<b>Review Location (if known):</b>
---------------------	------------------------------------

Protection Plan approved as accurate and confirmed copied to set agencies and Core Group members

Signed by Case Conference Chair:

Date:

## **SECTION TWO – APPENDICES**

### [Appendix 1](#)

Quality Assurance of Adult Protection Processes

### [Appendix 2: Allegations Against Staff](#)

Allegations Against Staff

### [Appendix 3: Undue Pressure](#)

Undue Pressure

### [Appendix 4: Protocol for Adult Support and Protection Initial Screening Group](#)

Protocol for Adult Support and Protection Initial Screening Group

### [Appendix 5.1: Data Sharing Agreement and 5.2 Data Sharing for Case Review](#)

Data Sharing Agreement and Data Sharing for Case Reviews

### [Appendix 6 Managing a Disclosure](#)

Managing a Disclosure

### [Appendix 7 Large Scale Investigations](#)

Large Scale Investigations

### [Appendix 8 Section 10 Letter](#)

Section 10 Letter

### [Appendix 9](#)

Learning reviews

### [Appendix 10](#)

Gender-based violence protocol

### [Appendix 11](#)

Appropriate Adult Guidance

### [Appendix 12](#)

Shetland Missing Person Protocol

## **APPENDIX 1**

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### **Quality Assurance of Adult Protection Processes**

Protecting Adults at Risk of harm is the responsibility of all agencies and organisations in Shetland. Each agency will need to have regard to their own internal quality assurance processes which focus on the actions taken by their own staff and the outcomes for a particular adult.

Shetland Public Protection Committee has the responsibility of taking an overview of adult protection processes and through the Quality Assurance Sub-committee for Adult Protection to bring together information from single agency quality assurance work and to also commission interagency quality assurance work. This should be guided by an agreed self-evaluation framework that aims to improve outcome for adults subject to Adult Protection Procedures and is clearly linked to continuous improvement.

The Care Inspectorate has developed Quality Indicators for adult protection.

Given the specific role of Local Authorities under the Adult Support and Protection (Scotland) Act 2007 quality assuring the referrals received, the actions of Duty Social Workers, Council Officers and allocated Social Workers for adults subject to protection plans on a day to day basis will fall to Senior Social Workers. Additionally the Improvement Reviewing Officer will gather information about Adult Protection Case Conferences and report to Shetland Public Protection Committee on an annual basis.

Shetland Public Protection Committee has agreed to participate in a biennial Guided Record Reading which will use the Care Inspectorate's relevant proforma to assess the quality of work and the outcomes for adults receiving services. A data sharing agreement to facilitate this is in [Appendix 6](#). The Public Protection Lead Officer will take responsibility for ensuring the most up to date version of the Care Inspectorate's proforma is available for the biennial guided record reading. The findings of the Guided Record Reading will feed achievable recommendations and a SMART action plan that will be overseen by the Quality Assurance Sub-committee for Adult Protection and Shetland Public Protection Committee.

The Care Inspectorate's quality indicators for Adult Protection can be found here: [Adult support and protection quality indicator framework.pdf \(careinspectorate.com\)](#)

## **APPENDIX 2**

### **Allegations Against Staff**

- 1.1 Any allegations that an adult has been harmed by a member of staff from any organisation (or volunteer working for any organisation or a personal assistant) will be dealt with in accordance with these procedures following the Stepwise Guide as laid out in Chapter 6. In some instances, an individual doing regulated work can become unsuitable to continue to do this work due to their conduct at work or outside of work.
- 1.2 Anyone who receives an allegation indicating that a member of staff, personal assistant or volunteer has harmed or may have harmed an adult must make an adult protection referral immediately following normal procedures.
- 1.3 The Senior Social Worker Adult Social Work will coordinate initial inquiries and any subsequent Inter-Agency Referral Discussion, Professionals' Meeting or formal investigation, although it must be noted than in cases that indicate criminal conduct Police Scotland will take a lead. The Senior Social Worker will ensure that the staff member's line manager is informed immediately and the appropriate Senior Manager and Human Resources Officer in the employing organisation. Allegations against staff almost always require a Professionals' Meeting to be held, to which a Police representative from the Concern Hub, and the employee's manager at team leader level, will be invited.
- 1.4 The Senior Social Worker needs to inform appropriate managers that an allegation has been made against a member of their staff. Additionally the following should be notified:
  - For allegations against Social Workers or Social Care staff or any other Shetland Islands Council staff the Chief Social Work Officer should be informed;
  - For allegation against teacher or other staff employed by the Quality Improvement or Schools Service, the Director Children's Services should be informed;
  - For NHS Staff, the Head of Human Resources for NHS Shetland should be informed;
  - For Police Scotland the Chief Inspector Shetland Area Command should be informed.

N.B For Shetland Islands Council staff, it is the responsibility of the relevant Team Leader to inform Human Resources, the Scottish Social Services Council and the Care Inspectorate.

- 1.5 Allegations against staff should be recorded on the Adult at Risk's Social Work Information System Profile notes.

- 1.6 Third Sector and Private Employers will need to manage such situations through their own managers, management committees and human resources support.
- 1.7 The Shetland Inter-agency Adult Protection procedures should be implemented to conduct the adult protection investigation. But these processes should work alongside the organisation's own human resources policies and procedures. Suspension or redeployment of staff is decision to be taken following the agencies own human resources processes and the guidance of appropriate managers. However the principle of protecting an Adult at Risk whilst acknowledging the difficulties for staff and ensuring they are also supported should be adhered to.
- 1.8 In situations where allegations are made against Personal Assistants employed under direct payments any investigation should follow these procedures, but additionally consideration will need to be given as to whether the direct payment package can continue.
- 1.9 There will be situations when setting up a large scale investigation is necessary. This will usually be when allegations indicate a culture of poor, abusive neglectful care in a specific service or when the member of staff against who allegations have been made against has provided a service to a number of adults either in the community or in a care centre or day service. Please see Appendix 9 for further information on Large Scale Investigations.

## **APPENDIX 3**

### **UNDUE PRESSURE**

#### **(SECTION 35 OF THE ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007)**

#### **1. Undue Pressure**

- 1.1 The provisions relating to undue pressure do not apply where the Adult at Risk does not have capacity or if it has not been possible to ascertain the view of the Adult at Risk e.g. access has been denied.
- 1.2 No protection order can be granted where the court knows that the Adult at Risk has refused consent to this unless the Sheriff reasonably believes that:
  - a) the Adult at Risk has been unduly pressurised to refuse consent to the action; and
  - b) there are no steps which could reasonably be taken with the adult's consent which would protect the adult from harm which the order or action is intended to prevent.
- 1.3 'Undue Pressure' applies to situations where the harm is carried out by a person in whom the adult has confidence and trust and where the Adult at Risk would consent to the granting of the protection order if the adult did not have confidence and trust in that person. A relationship founded on trust and confidence may be with a family member, neighbour, or other person who may provide support in order to exploit or harm, or a person upon whom the Adult at Risk is very dependent.
- 1.4 There may be other situations where it could be shown that there has been undue pressure. There may be grounds which evidence undue pressure where the adult may not wish to upset the person by giving consent because of:
  - anticipation of threats or intimidation;
  - belief that the consequences of giving consent will result in the Adult at Risk experiencing negative consequences;
  - fear of abandonment and or loneliness;
  - fear of withdrawal of practical and emotional support;
  - being worried about talking when certain people are present;
  - not being allowed time alone with the worker;
  - lack of eye contact; and/or
  - personal presentation.

1.5 The Adult Support and Protection (Scotland) Act 2007 says that if there has been undue pressure, a refusal to consent can be ignored:

- a) by the Sheriff determining whether to grant a protection order; or
- b) by any person taking action to carry out or enforce a protection order.

However a refusal of consent cannot be ignored where it relates to the interview or medical examination of the adult. Therefore an interview or medical examination cannot take place where the adult refuses to consent, even if the Council Officer thinks there has been undue pressure. In these circumstances much will depend on the evidence which has been gathered for the application from sources other than the adult themselves.

1.6 The burden of proof of establishing that there has been undue pressure on an Adult at Risk of harm rests with the Council in court applications.

1.7 Where the Council considers that, after making enquiries under Section 4 of the Act, it needs to intervene, it has a duty to ensure that the adult's past and present wishes are represented and that the adult is assisted to participate as fully as possible in proceedings.

## **APPENDIX 4**

# **Protocol for Adult Support and Protection Risk and Concern Hub**

## **Introduction**

The Adult Support and Protection (Scotland) Act 2007 Section 4 makes it a legal duty for Shetland Islands Council to make inquiries into the circumstances of adults that it know or believes to be at risk and for other agencies to co-operate with these inquiries. Section 5 outlines the duty on police services and health services (as well as other bodies) to co-operate with any inquiries.

It also makes it a legal duty for agencies to make referrals to Shetland Islands Council of any adult they believe to be at risk of harm.

Police Scotland comes into contact with a large number of adults about whom they have welfare concerns. Additionally NHS Shetland and a range of services operated by Shetland Island Council to provide support and care to adults may also become aware of potential “at risk” situations. The circumstances of these adults differ widely, as does the seriousness of the concerns.

This Protocol will sit as an Appendix to the Shetland Inter-Agency Adult Support and Protection Procedures 2024. This protocol operates under the Shetland Data Sharing Agreement and to the duties placed on agencies to share information in Section 5 of the Adult Support and Protection (Scotland) Act 2007.

## **Purpose of the Risk and Concern Hub**

- To ensure that there is an integrated process for establishing where there is a genuine cause for concern or intervention
- To establish what information agencies already have about the adult referred and to share information that is relevant and proportionate to the situation under discussion and any associated risk to the adult.
- To ensure that information is discussed and a co-ordinated response agreed.

The intended outcomes of the introduction of the Adult Support Protection Risk and Concern Hub are therefore to

- Improve the sharing and collation of interagency information so as to be better able to make appropriate decisions about the need for support to an adult
- To assist the local authority in determining if the adult's situation meets the three point criteria and if formal investigations and other measures under the Inter agency Adult Protection Procedures may be required.

This protocol outlines the operational procedures of the Risk and Concern Hub meeting. The protocol is designed to ensure that relevant information is shared by the key adult protection partners, and that actions are agreed that are both appropriate and proportionate.

## **Procedures**

### **1. Meeting frequency**

Adult Social Work will triage adult concern and adult protection referrals by completing initial checks. Any immediate action necessary will be taken. Cases that would benefit from an urgent interagency discussion will be taken to an IRD meeting, which will be held as soon as it is required. Any cases that do not require urgent action, but would benefit from Inter Agency Information sharing/discussion will be added to the agenda for the weekly Risk and Concern Hub. Any adult who has been referred on 3 occasions will be discussed at the Risk and Concern Hub which is held weekly.

Permanent full time members of the meeting will be:

- Senior Social Worker SIC Adult Social Work
- Police Scotland
- NHS Shetland Protection Nurse Adviser
- Duty Administrative Assistant Social Work(minute taker)

Deputes can be asked to attend the meeting as necessary. It will be the responsibility of permanent members of the group to brief those deputising for them.

Any other agencies can be invited if it is felt it would be appropriate to include them to discuss a specific referral for example the inclusion of staff from the Justice Social Work Team and Housing Services may in some circumstances be appropriate.

### **2. Confidentiality and Data Management**

Adults have the right to have their confidentiality respected and therefore representatives attending the Risk and Concern Hub have a duty to share information that is relevant to the situation. Information will be shared in accordance with the Shetland Data Sharing Protocol.

- Decide from the information that their agency holds in respect of an adult who has been referred to Adult Social Work and what may be relevant to share and discuss
- E mails giving information about the referrals should be sent by secure e mail and measures must be taken to make sure that only authorised people have access to them. If representatives choose to print e mails measures must be taken to ensure that the hard copy is kept safe and only authorised staff have access to it.
- Information relating to the adult either in electronic form or hard copy should be filed in the adult's file or destroyed following the meeting.

### **3. Preparation for Risk and Concern Hub meeting**

A referral raising a concern that an adult may be at risk will be made by any agency or individual to the Duty Administrative Assistant Adult Social Work Team.

The Duty Administrative Assistant will

- Check SWIFT for any information relating to the adult referred. A check for information on other adults or children connected to the adult referred or living at the same address must also be made.
- If unallocated, they will then pass referral to the Duty Social Worker urgently if the referral indicates immediate risk
- The Duty Social Worker will liaise with the Senior Social Worker to determine whether the referral can wait to be discussed at the Risk and Concern Hub. The Duty Assistant will e mail the referral to the single point of contact in the agencies, who attend the meeting. This should be done within 2 working day of receipt of the referral.
- Where a concern is received relating to an allocated case, the allocated Social Worker would liaise with their line manager to determine where an inter-agency referral discussion is required. They would then follow the process for requesting an IRD if required. Allocated cases would not be added by Social work to the agenda for the Risk and Concern Hub as it is more appropriate for the allocated worker/their line manger to take forward IRD's.
- The Duty Administrative Assistant to contact Housing services to check any information that they may hold in respect of the adult. Depending on the outcome of this initial check the Senior Social Worker may decide that a representative from Housing Services should attend the Risk and Concern Hub meeting to further discuss the adult's situation.
- The Duty Senior Social Worker may also decide that other agencies should be invited to attend the screening meeting to discuss a specific referral.
- Before the meeting the Duty Assistant will prepare a collated agenda sheet giving the list of referrals to be discussed and this will be circulated to all agencies two working days prior to the meeting who attend by secure e mail.

The Senior Social Worker always has the discretion to decide how a referral will be dealt with i.e. whether other legislation Mental Health (Care and Treatment) (Scotland) Act 2003, Adults With Incapacity (Scotland) Act 2000 – applies and also which referrals can wait until the Risk and Concern Hub meeting. Information from other agencies can be sought by telephone if a more urgent response is required to the situation.

#### **4. Risk and Concern Hub Meetings**

Risk and Concern Hub meetings will:

- Share and collate information relevant to the circumstances of the referral
- Make a decision about the meeting of the three point criteria and if any further action is required under ASP procedures. This decision lies finally with the Senior Social Worker acting on behalf of the council under the Adult Support and Protection (Scotland) Act 2007, but should be informed by the information shared and discussed at the meeting.
- The minute of the meeting should record whether or not the three point criteria is met
- If the adult meets the three point criteria and if it is necessary to arrange an IRD to plan an inquiry with investigatory powers it would be good practice to hold a separate meeting, however if all the individuals are present that would attend the IRD then discussion can be held and recorded in the appropriate format.
- Decide on any other intervention that may be needed either on a single or interagency basis
- To decide if there is a need to report back to the Risk and Concern Hub on any action taken. This will not be necessary for every referral, but for some it may be important.

## **5. Following Risk and Concern Hub**

- It is important that there is a flow of information both into and out of the meeting. Following the discussion at the meeting it will be important for staff acting as a single point of contact to feedback to colleagues who may also be working with the adult whose situation has been discussed and there may be specific actions for agencies to undertake.
- The minute taker will circulate the minute and any actions required within two working days following the meeting by secure e mail.
- Staff acting as single point of contact for their agency can share the section of the minute referring to a specific adult with staff in their agency who are either currently working with that adult and have provided information for the Risk and Concern Hub or who are being asked to assess the adult's needs in response to decisions made at the meeting.

## **6. Cuckooing and exploitation**

The meeting may identify that an adult (or adults) could be at risk of perpetrators moving into their property either to financially exploit the adult or take advantage of free accommodation or to use the adults home for illegal purposes (drug dealing etc). In such situations the Risk and Concern Hub can use the guidance in Annex 1 to this appendix to hold an inter-agency meeting to discuss the situation and make safety plans.

Please see Annex 1 Cuckooing

## **Annex 1 to Appendix 4 - Framework for Responding to Exploitation and Cuckooing**

### **Introduction**

"Cuckooing" is the term used where an organised crime group takes over a person's home by intimidation or other means, including the use of violence, so that they can use the premises for criminal purposes, particularly for storing and dealing drugs. This is often achieved through the use of threats and actual violence towards the occupants or their loved ones.

It is known that individuals involved in serious organised crime gangs from areas travel to other parts of the country. These individuals will then take over the property to assist with their illegal operation, be it for storing or dealing drugs.

In addition to this, individuals can exploit other adults- particularly those who they perceive as being more vulnerable or open to being manipulated- for the purpose of financial gain, sexual favours or being able to live in the exploited adult's home at their expense.

### **Shetland Interagency Approach to Cuckooing**

This framework links with the established Risk and Harm Hub. In some cases, IRDs may identify concerns about cuckooing and exploitation.

- Adult concern referrals (usually from Police Scotland, but can come from other sources) will be discussed at the Risk and Concern Hub or IRD if appropriate.
- If that discussion identifies risks related to exploitation and cuckooing a decision will be made about the requirement for an IRD.
- Any relevant agency can be invited to address specific concerns regarding an individual but if the concerns relate to the possible misuse of a tenancy then SIC

Housing or Hjaltland must be included and consideration given to including the Anti-social Behaviour Coordinator. Invites need to include information about the adult and the nature of the concerns discussed at the Hub.

- Participants should come prepared to share information held by their agency about the adult who is the cause for concern
- Information related to the person or persons who may be causing harm should also be shared
- Following information sharing and discussion, a decision will be made about whether the adult being exploited is an adult at risk of harm and meets the three point criteria. In such cases any further action or intervention will follow Shetland Interagency Adult Protection Procedures. In which case, to save time, the APPM can function as an IRD if all relevant professionals were present.
- If an adult, who is potentially being exploited or cuckooed, is not assessed as meeting the three point criteria and is not an adult risk of harm, but there are concerns for that adult's wellbeing or the need to intervene to prevent future harm, then an interagency plan of how to approach that adult in order to discuss the situation and offer them support and guidance will be made. Care and sensitivity will be required as if an adult is under pressure then an inappropriate approach can increase risk.
- Depending on the circumstances and concerns different agencies may take on the role of speaking to the individual for e.g. Police and SIC Housing Officer may visit them, or the Anti-Social Behaviour Coordinator may be involved
- With the adult's agreement, referral to other helping services may be made on their behalf.
- Any potential criminal activity will be the responsibility of Police Scotland to investigate
- Records of cases discussed and outcomes for adult offered support and advice will be kept using the agreed spreadsheet. Brief minutes of discussions will be kept using the same proforma as used for the Hub meeting.

### **Data Sharing Arrangements and Data Security**

Any data sharing relating to individuals who are at risk of exploitation will take place using the following legislation and guidance

- Adult Support and Protection (Scotland) 2007 Act,
- Shetland Interagency Adult Protection Procedures September 2020 ( and the data sharing arrangements in the procedures)
- Section 139 Anti-social Behaviour Act and all relevant data sharing agreements. Section 139 of the Antisocial Behaviour etc. (Scotland) Act 2004 provides Shetland Islands Council with lawful power for disclosure where this is necessary or expedient for the purposes of any provision of the Act or any other enactment, which aims to deal with antisocial behaviour and its effects.

Any information shared will be relevant, proportionate and related to the concerns under discussion. It will focus on the risks to the individual and others.

Agency representatives attending the meeting are responsible for the security of their own agencies data. Brief minutes of discussions and plans will be kept and circulate to those attending. A spreadsheet will be kept by Duty Assistant, Adult Social Work related to the cases discussed and from this anonymised data on numbers and types of cases will be shared with Shetland Public Protection Committee.

## **Agenda for discussing Cuckooing and Exploitation**

1 Introductions

2 Information sharing by each agency present focussing on current problems and risks. Consideration of risk to the adult under discussion and to others in the community/household/family. Consideration of Child protection issues if children in the household

3 Information about who is potentially causing harm

4 Consideration of any gaps in information and need to reconvene with other agencies/staff present or to give time to gather more information

5 Decision about three point criteria and requirement to follow ASP procedures

6 If not ASP what actions are required, under what powers/legislation and who will carry these out

7 Is there a need to reconvene the meeting to share further information once actions are completed

**NOTE TAKING PROFORMA**  
**Adult Protection Risk and Concern Hub – DATE OF MEETING**

**Present:**

<b>Adult's Name</b>	
<b>Date of Birth</b>	
<b>Address</b>	

<b>Date and nature of incident</b>

<b>Note of Discussion</b>

<b>Actions</b>
<b>To include decision about the 3 point criteria</b>

**Signed:** ..... (Senior Social Worker- Chair)

## **APPENDIX 5.1**

### **DATA SHARING AGREEMENT Between**

#### **SHETLAND ISLANDS COUNCIL NHS SHETLAND POLICE SCOTLAND and VOLUNTARY ACTION SHETLAND**

### **1. Introduction**

- 1.1 This is a Data Sharing Agreement (the Agreement) supported by the Shetland Data Sharing Policy (the Policy). The Policy forms part of the Agreement. By agreeing to the terms of the Agreement, all parties have undertaken to implement and adhere to the terms of the Policy.
- 1.2 The Agreement forms part of the Shetland Inter-Agency Adult Support and Protection procedures (the Procedures). By agreeing to the terms of the Agreement, all parties have undertaken to implement and adhere to the terms of the Procedures.

### **2. Purpose**

- 2.1 The purpose of the Agreement is to facilitate the exchange of data to support the Procedures and ensure that adults who may be at risk of harm in Shetland are safe, respected and included, with clear communication routes and fully involved in all decision making.
- 2.2 The aim is that all adults who may be at risk of harm are empowered through support from the parties to the Agreement to be free from harm and enabled to make decisions and choices about their lives and to live as independently as possible in relation to their personal circumstances.
- 2.3 Most adults who may be considered to be at risk of harm manage to live their lives safely with the assistance of caring partners, relatives, friends, family and with the support of medical and social services provided by professional agencies and volunteers. However, some people will experience harm such as physical abuse, sexual abuse, psychological harm or exploitation of their finances or property. The Adult Support and Protection (Scotland) Act 2007 was introduced to ensure that adults who experience such harm will be protected.

### **3. Data to be Shared**

- 3.1 There are four stages where data may be shared between the parties to the Agreement in compliance with the Procedures:-
  - (i) Referral to Duty Social Work

- (ii) Adult Support and Protection inquiry with investigatory powers
- (iii) Adult Support and Protection Case Conference
- (iv) Protection Plan

3.2 At each stage, only information that is relevant and proportionate to the situation will be shared and that information shall only be used for the purposes of identifying whether an adult is at risk of harm, and if so, developing and implementing a plan to protect that adult.

3.3 Identifying an adult that may be at risk of harm or abuse and that may need support and protection is fully detailed in the Procedures along with clear examples and guidance. The Procedures also include standard forms and records to be completed which clearly identify the information that is required at each stage.

#### **4. Recording the Data Sharing**

4.1 The standard forms within the Procedures must be completed to ensure that there is an accurate record of all data sharing for each adult referred to Duty Social Work.

#### **5. Legal Basis for Data Sharing**

5.1 Adults have the right to make their own decisions and choices regarding lifestyle and the lives that they lead. Therefore, the consent of the adult is generally required before anyone can intervene in their lives.

5.2 Shetland Islands Council has a statutory duty to make inquiries under the Adult Support and Protection (Scotland) Act 2007 when it knows or believes that the person is an adult and risk and that intervention may be required to protect the adult.

5.3 Other public bodies, such as NHS Shetland and Police Scotland, have a statutory duty to co-operate with Shetland Islands Council when carrying out an investigation under the Adult Support and Protection (Scotland) Act 2007 and to report the facts and circumstances of an adult at risk to Shetland Islands Council.

5.4 In complying with the statutory duties imposed by the Adult Support and Protection (Scotland) Act 2007, the adult's consent is not required for a referral and investigation under the Act. At the point that a formal investigation is being undertaken an adult should receive a copy of the leaflet entitled "Information for Adults at Risk" which explains the process to be followed under the Procedures and how their personal information will be handled. It is important that the adult is involved and informed at each stage so that their co-operation is sought in accordance with the principles of the Act.

5.5 If a Protection Plan is required to manage the risks to the adult, then the adult's consent must be sought to the measures contained within the Protection Plan. The adult's views and wishes are central to Adult Support and Protection and safety measures cannot be enforced on the adult. The adult's consent is clearly recorded on the Protection Plan.

5.6 If the adult does not consent to the proposed Protection Plan, if there are any concerns regarding the adult's capacity or there are concerns that there is undue pressure being applied to the adult then appropriate legal advice should be sought in accordance with the Procedures.

## **6. Security**

6.1 Information will be shared by:-

- E-mail across recognised secure networks in accordance with paragraph 8.5.4 of the Policy.
- Verbal updates at meetings which are held and recorded in accordance with the Procedures.

## **7. Retention and Storage of Data**

7.1 The parties to the Agreement are responsible for ensuring all personal data they hold under the Agreement is stored and destroyed in accordance with their own Data Protection and/or Retention and Destruction Policy.

## **8. Responsibilities**

8.1 The parties to the Agreement are responsible for ensuring their staff are bound by the Agreement and adhere to its terms. The parties are individually responsible for ensuring that all supporting policies and procedures necessary to comply with the Agreement are implemented within their own organisation.

## **9. Individual Rights Under Data Protection Legislation**

9.1 The parties to the Agreement are responsible for ensuring they have the necessary policies and procedures in place to deal with a request from an individual to exercise their rights under data protection law, including access to information, correcting information, objecting to the use of information and restricting how information may be used.

9.2 The parties to the agreement are responsible for ensuring they have the necessary Privacy Notices or Statements to explain how they process personal data under the agreement.

## **10. Complaints and Breaches**

10.1 Any breaches of the Agreement identified by the parties must be brought to the immediate attention of the Data Protection Officer within the agency where the breach occurred. The Data Protection Officer should carry out an internal investigation to identify the cause of the breach.

10.2 Any individual wishing to make a complaint regarding how their personal data has been handled under the Agreement should do so through the appropriate organisation's internal Complaints Procedure.

10.3 The parties to the Agreement are responsible for giving an individual general advice and support on how to progress a complaint or concern under the Policy.

## **11. Review**

11.1 The Agreement will be reviewed when the Procedures are reviewed or more regularly if necessary due to changes in legislation, guidance or good practice. The review will be organised by the Shetland Adult Protection Committee and should involve all parties to the Agreement.

11.2 The following information will be prepared and considered when the Agreement is reviewed:

- Any updated guidance in respect of data protection issued by the Information Commissioner's Office or Scottish Government.
- Any complaints or issues raised by the parties to the Agreement or any adult at risk that require to be addressed by amending the Agreement

## Appendix 6

### Managing a disclosure of harm

Adults who are at risk of harm may tell someone that they are not safe and are at risk. This information can come to light in a variety of ways:

- The adult makes a choice to tell a trusted person (a neighbour, friend, family member, paid or unpaid carer, health professional etc.) what is happening to them. E.g. the adult tells the trusted person that they are in an abusive relationship.
- The adult, in the course of other discussions related to health, welfare and support, makes a disclosure, although they may not have intended to do this e.g. when speaking about nutritional needs and eating well the adult says that they are not getting sufficient food and often feel hungry as their carer does not give them food.
- In response to an appropriate question the adult makes a disclosure of harm e.g. a carer asks the adult about some bruises to their arm and the adult says they have been hit.
- The adult accidentally reveals that they may be at risk e.g. the adult tells a carer they are sending money away in order to get their Lottery winnings – the carer is concerned they are being scammed

However concerns come to light it is important to:

- Take what the adult says seriously
- Listen carefully
- Ask appropriate clarifying questions if it is not clear what the adult is saying or meaning. These need to be open questions- “tell me” “describe to me”, who, what, when, how
- But do not bombard them with questions. . Take care if the adult has communication difficulties and requires augmented communication support
- Try not to ask leading questions. These are questions that suggest the answer e.g. “it was George who hit you wasn’t it?”
- Do not investigate, make promises you cannot keep to stop what is happening or contact the person who is causing harm to the adult
- Even if the adult is fearful of the consequences of what they have said and does not want the information passed on it is important to be honest and let them know that if they are at risk the person receiving the disclosure cannot keep it a secret.
- Follow the [Stepwise guide](#) in these procedures and make an adult protection referral without delay.

- Only share information with those who need to know - Adult Social work, line manager or supervisor and do not share with others. Discuss concerns raised by the adult's disclosure without delay.
- Consent from the adult is not required to make an adult protection referral. However if it is safe to do so and does not increase the risk to the adult and does not alert any alleged perpetrator then it is good practice to let the adult know that such a referral has been made.
- Make referral without delay by phone. Professional staff should follow this with a completed referral form (Section 13 forms) keep copy of the form for the referrer's records.

### **Further help**

It is not possible in a set of Procedures such as these to cover every eventuality. Training at various levels and on various topic is available through the Shetland Public Protection Committee, and may be provided by your own organisation.

## Appendix 7

### Large Scale Investigations Protocol

#### 1. Definition of Large Scale Investigation

A Large Scale Investigation may be required where there is reason to believe that adults who are service users of a care home, supported accommodation, an NHS hospital or other facility, or who receive services in their own home, may be at risk of harm due to another service user, a member of staff, some failing or deficit in the management regime, or in the environment of the establishment or service. A Large Scale Investigation may also be indicated by the need to address structures or systems that lead to possible harm for all those under such structures. In such circumstances, this means that there is a belief that a particular service may be placing some or all of its residents or service users at risk of harm.

#### 2. Purpose of the protocol

- To help to decide if a Large Scale Investigation is required.
- Provide a standardised approach to be implemented by all professionals consistent with current evidence of best practice.
- Provide a framework to co-ordinate and plan a number of individual inquiries and investigations.

#### 3. Criteria

A large scale investigation should be considered in the following situations:

- an adult protection referral is received which involves two or more adults living within, or cared for, by the same service;
- a referral is received regarding one adult, but the nature of the referral raises queries regarding the standard of care provided by a service;
- where more than one perpetrator is suspected;
- institutional harm is suspected;
- a whistle-blower has made serious allegations regarding a service;
- there are significant concerns regarding the quality of care provided and a service's ability to improve. These concerns could come from a regulatory body such as the Care Inspectorate;
- an adult or adults are living independently within the community but are subject to harm from a perpetrator or group of perpetrators, or it is strongly suspected that more than one adult is subject to such harm;
- concerns regarding an adult are raised following their admission to hospital or discharge. This may include concerns about a care service that are evidenced by an admission to hospital, or concerns regarding an NHS service area;
- concerns are raised via a complaint to the Care Inspectorate, NHS Board, or the local Council or Health and Social Care Partnership;
- concerns are raised by General Practices, District Nurses, Dentists, Allied Health Professionals etc. who attend a service.

Harm in a care setting may include:

- Financial, physical or sexual abuse;
- Neglect or omission of care;
- Exploitation, coercion or undue influence to the detriment of the adult;
- Psychological abuse, however subtle;
- Undignified or degrading treatment.

#### **4. Process**

Following the Stepwise Guide Inter-Agency Referral Discussions will take place to consider any adult protection referral which may require further investigation. Using the criteria above every Inter-Agency Referral Discussion should consider the requirement for a Large Scale Investigation. In most cases it will quickly become apparent that a Large Scale Investigation is required or not. In some cases it may only become apparent when subsequent adult protection referrals indicate a pattern. If there is doubt about the circumstances of the adult or Adults at Risk then the Shetland Inter-Agency Adult Protection Procedures allow for an Adult Protection Professionals' Meeting to be called which can include representatives from any agency who can contribute to the discussion and decision making.

If the Inter-Agency Referral Discussion or subsequent Adult Protection Professionals' Meeting decides that the case or cases under discussion meet the criteria for a Large Scale Investigation then the Senior Social Worker attending the Inter-Agency Referral Discussion has the responsibility to communicate this to the Executive Manager Adult Services.

The Executive Manager Adult Services has the responsibility to convene and chair an interagency Large Scale Investigation Core Group. An Initial meeting should be held as quickly as possible consistent with initial risk assessments, but in any case within seven working days.

If there is any dispute about the requirement for a Large Scale Investigation, the matter should be escalated to the Senior Officer Case Review Group as quickly as possible so the matter can be resolved.

#### **5. Initial Investigations**

- 5.1 If the identified risks relate to the actions of a staff member (or staff members) within an organisation, then that organisation will be responsible for invoking its own disciplinary proceedings and ensuring that any immediate risks are removed or minimised.
- 5.2 Where there are concerns of wilful neglect and concerns that other adults may be at risk, a report must be made to the Police.

- 5.3 If there is a criminal investigation, this will take priority over any disciplinary proceedings and the organisation should be advised accordingly. Where the organisation concerned contracts with the Council to provide a service, then the Contracts Officer, Assets Commissioning and Procurement should be advised of any indications that the provider may be in breach of contract.
- 5.4 Where the allegation relates to a Personal Assistant who is being employed under a direct payments arrangement, consideration of the safety of all the adults the personal assistant provides care too needs to be considered. Ultimately Shetland Islands Council may have to consider if it is appropriate for the direct payments to continue.
- 5.5 The Inter-Agency Referral Discussion will need to include appropriate representatives from relevant human resources departments.

The Chief Social Work Officer should be notified when any Large Scale Investigation is commenced:

- Whether any immediate protective action is required should individuals be at risk of imminent harm;
- Whether a Large Scale Investigation is required and an Interagency Large Scale Investigation Core Group should be established;
- If a Large Scale Investigation is required then the Senior Social worker attending the Inter-Agency Referral Discussion will take responsibility for liaising with the Executive Manager Adult Services

- 5.6 If the allegations relate to a registered service then the Care Inspectorate should be alerted.

Further information for managing allegations against staff please see Appendix 2 in the Adult Protection Procedures.

## **6. Investigations**

Individual Council Officer led investigations involving interviewing adults who have been harmed by a member of staff or in a care setting should be planned and carried out as is laid out in the Stepwise Guide in the Adult Protection Procedures. Where individual investigations are taking place as part of a Large Scale Investigation they should be reported back and discussed at the Interagency Large Scale Investigation Core Group chaired by the Executive Manager Adult Services. The initial meeting should take place within seven working days of the decision that a Large Scale Investigation is required. The frequency, time and place for subsequent meetings will be agreed by the Executive Manager in conjunction with the Senior Social Worker and other key agencies. Meetings will be minuted.

Interagency Large Scale Investigation Core group meetings do need to consider the whole picture, but also the individual needs of the adult involved.

The following list should be used as an outline agenda, but it is not exhaustive and other issues may need to be identified and added.

- Identify all adults who will need to be interviewed. Agree whether / how to progress the investigation and allocate a Council Officer to plan and undertake interviews. Additional Council Officers will be required if multiple individuals are being interviewed and in some cases interviews may be jointly done with Police Scotland. Second workers should be made available when Police Scotland are not attending the interview.
- Share available information from all key agencies including Police, NHS, the Council and the Care Inspectorate.
- Consider the requirement for criminal investigation.
- Consider any requirements for legal action under the Adult Support and Protection (Scotland) Act 2007 e.g. any of the Protection Orders.
- Consider whether individual adult protection case conferences need to be convened.
- Care planning.
- Advocacy.
- Support to carers and family members and agreeing what information will be shared with them and whether the consent of the adult is required to share information.
- Identify and evaluate risks.
- Decide what further information is required and how that will be sourced;
- Agree a risk management plan identifying key tasks to be undertaken, the person's responsible and agreed timescales. This will include any immediate protective measure for individuals (where not already addressed).
- For a care setting – decide whether there will be a moratorium on admission.
- Agree whether a review meeting is required and set a date if necessary.
- Link to disciplinary processes and action may be required.

6.1 Obtaining consent from an adult(s), for sharing information and / or passing on concerns (to the police for example) is a key issue. Where an adult does not give consent consideration will need to be given to:

- The possibility that they may be experiencing undue pressure;
- The risks to which other adults may be exposed by not sharing information;
- The adult's capacity at the time to make informed decisions

6.2 Where there are ongoing concerns about an individual adult or adults, the presence of a concurrent Police, Care Inspectorate or other investigation should not delay the agreement and implementation of a protection plan for the adult at risk.

It may be that, during the course of an investigation, further information emerges about a separate Adult Support and Protection concern. In these circumstances, there will be a need for an additional investigation of the individual concerned, a further IRD (where relevant) and an interim support and protection plan which is proportionate to the assessed risk in addition to the overarching large scale investigation and action plan

## **7. Large Scale Investigation Review Meeting**

A review meeting should be convened in order to review progress or conclude the investigation.

The timescale of the review must be proportionate to the risk of harm to all individuals.

The review meeting will:

- Consider reports from investigating social workers;
- Ensure that appropriate Risk Assessments have been completed and Risk Management Plans are in place;
- Agree any outstanding actions and date of next review, where required.
- Ensure that timescales are set for following up any outstanding actions.

Where the review meeting has decided to conclude the Large Scale Investigation, any Protection Plans implemented for individual adults at risk should be continued and reviewed in line with standard local Adult Protection Procedures.

## **8. Records**

- 8.1 All decisions taken should be minuted. Where available minutes should be stored securely on the Adult Social Work O'Drive. All agencies are responsible for the secure storage of the minute within their organisation's policy and procedures.
- 8.2 Minutes of the Inter-Agency Large Scale Investigation Core Group meetings will form the basis of the investigation record together with any reports submitted. Where investigations relate to an individual, case notes will be recorded on the Social Work information management system.
- 2.3 The decision to end an investigation should be taken at the Large Scale Investigation Review Group and minutes should be circulated to this effect to all invitees.

## **9. Other Considerations**

Increasingly vulnerable adults are targeted and exploited by individuals who wish to financially harm them, sexually exploit them or use their home either as a place to stay or for illegal activity such as supply of illegal drugs. There is evidence to suggest that such individuals may move from one Adult at Risk of harm to another or target a number of adults at the same time.

As outlined in Section 1 if information shared at the inquiry and Inter-Agency Referral Discussion indicate a number of adults are at risk from a specific individual, an Interagency Large Scale Investigation Core Group should be established under the chair of the Executive Manager Adult Services. Police Scotland will take a lead on any criminal investigations.

There will be occasions when the person who is causing the harm are themselves an Adult at Risk or someone with significant complex problems of their own (mental health, substance misuse issues for e.g.) The needs of the person causing harm should also be considered by the Large Scale Investigation Core Group and where required help and support offered as a way of mitigating that person's situation and their need or propensity to target others.

The process outlined in Section 1 should be followed.

## **Appendix 8**

### **Section 10 Letter**

#### **Introduction**

Section 10 of the Adult Support and Protection (Scotland) Act 2007

“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 records or copies of them, to the officer”

There is a legal duty to provide information required under Section 10. In most circumstances agencies will respond to a request for information by phone or e mail. Sometime it may be more appropriate to make a formal request, support from your Legal team can be sought if this is required.

## **Appendix 9**

### **Learning Reviews**

#### **1. Introduction - Criteria for Adult Support and Protection Learning Reviews**

- 1.1 In 2022, the Scottish Government published a guide for Adult Protection Committees for conducting Adult Support and Protection Learning Reviews [Adult support and protection: learning review guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/information/adult-support-and-protection-learning-review-guidance/)

Learning Reviews are not investigations. They are an opportunity for in-depth analysis and critical reflection in order to gain greater understanding of inevitably complex situations and to develop strategies to support practice and improve systems across agencies.

#### **Underpinning Principles and Values**

Learning Reviews are underpinned by the following core principles and values:

- They promote a culture which supports learning;
- Their emphasis is on learning and organisational accountability and not on culpability;
- They recognize that a positive shared learning culture is an essential requirement for achieving effective multi-agency practice;
- They are objective and transparent;
- They ensure that staff are engaged and involved in the process and supported throughout the period of the review;
- They recognise the complexities and difficulties in the work to protect Adults at Risk of harm, and their families and carers;
- They produce learning which can be disseminated, both at local and national level, so it directly impacts on, and positively influences, professional practice and organisational systems.

- 1.2 When an Adult at Risk dies or has experienced serious abuse or neglect, in line with the criteria below, Shetland Public Protection Committee, which fulfils all the functions of an Adult Protection Committee, may decide to conduct a Learning Review to gather information, provide an opportunity for learning and address any issues about interagency practice. Rather than the full Committee being involved in the various stages of a Learning Review the Senior Officer Case Review Group with the addition of the Chair of Shetland Public Protection Committee and the Lead Officer Public Protection will consider any request for a Learning Review and make appropriate recommendations to Shetland Public Protection Committee and the Chief Officers' Group. Further guidance on the process to be followed is given below. The Chair of Shetland Public Protection Committee and the Lead Officer Public Protection working with the Senior Officer Case Review Group will also draw up a remit for any Learning Review.

- 1.3 The Chair of Shetland Public Protection Committee or the Lead Officer Public Protection can be contacted by any agency (see below) in Shetland with a request that a Learning Review be conducted if they think a case meets the criteria outlined below. At this early stage the person requesting the Learning Review may already have some ideas about what the issues are or what questions need to be asked and if so, these should be included in the request- although it is not obligatory to do so. Even if the case does not meet the criteria, but it has raised concerns about professional practice or outcomes for an adult it would be important to make the initial request, as the Senior Officer Case Review Group has other mechanisms for reflecting on specific situations with the aim of learning and improving practice. This request should be made in writing to the Lead Officer Public Protection using the notification form in Appendix 1, giving clear reasons for the request. The Chair will respond **within 14 days** and further discussion will then follow.

## **2. Criteria for undertaking a Learning review**

The National Guidance for Adult Support and Protection Learning Reviews gives the following criteria for undertaking a Learning Review. In Shetland the Senior Officer Case Review Group and Shetland Public Protection Committee are responsible for conducting a Learning Review and disseminating any learning from it.

An Adult Protection Committee will undertake a Learning review in the following circumstances:

- 2.1. Where the adult is, or was, subject to adult support and protection processes** and the incident or accumulation of incidents gives rise for reasonable cause for concern about how professionals and services worked together to protect the adult from harm, **and** one or more of the following apply:

**(i) The adult at risk of harm dies and**

- harm or neglect is known or suspected to be a factor in the adult's death;
- the death is by suicide or accidental death;
- the death is by alleged murder, culpable homicide, reckless conduct, or act of violence.

or

**(ii) The adult at risk of harm has not died but** is believed to have experienced serious abuse or neglect

- 2.2 Where the adult who died or sustained serious harm was not subject to adult support and protection processes**

**(i) When the findings of an inquiry or review by another organisation or court proceedings, or a referral from another organisation** gives rise to reasonable cause for concern about lack of involvement in relation to the Adult Support and Protection (Scotland) Act 2007

or

**(ii) The Adult Protection Committee determines** there may be learning to be gained through conducting a Learning Review.

- 2.3 The Adult Support and Protection Act (Scotland) 2007 defines an adult as anyone over the age of 16. However the National Guidance for Child Protection 2021 and Shetland Interagency Child Protection Procedures are clear that the definition of “child” goes up to the age of 18, therefore a request for a Learning Review in respect of a 16 or 17 year old will fall under Child Protection Procedures. Protocol 5 in the Child Protection Procedures outlines the process for Child Protection Learning Reviews and works in parallel to this Appendix. In both situations the Senior Officer Case Review Group and Shetland Public Protection Committee take a lead role, so any debate about the right process to be followed can be resolved. The national guidance for both adult and child protection Learning Reviews is broadly similar.

### **3. Notification and Conducting Learning Reviews**

#### **3.1 Who Can Request a Learning Review?**

Any agency with an interest in an adult's wellbeing and safety can request that a case be considered for review by the Adult Protection Committee where they consider the criteria for review is met. It should be noted that concerns raised by families and addressed through the relevant agency's normal complaints procedure may also be a trigger for a Learning Review, where the agency considers the criteria for a review is met. The agency addressing the complaint should refer the circumstances to the Adult Protection Committee for their consideration at the earliest opportunity.

- 3.2 Anyone who wishes to request a Learning Review should complete the notification form at Appendix 1 to this Protocol. The Lead Officer Public Protection will inform the Chair of Shetland Public Protection Committee and respond to the request within 14 working days. The Lead Officer Public Protection should also notify the chair of the Chief Officers' Group that such a request has been made within 14 working days. The Lead Officer Public Protection will then request information about the specific case from all relevant agencies using the proforma in the National Guidance.
- 3.3 Agencies should complete the proforma and return information to the Lead Officer Public Protection within **14 working days**. The Lead Officer Public Protection, with assistance of the Public Protection Team, will draw information together into a chronology. The Lead Officer Public Protection will provide the Senior Officer Case Review Group with an initial report and chronology so consideration can be made of next steps. The Lead Officer Public Protection, in consultation with Shetland Public Protection Committee Chair, can recommend whether or not the case should proceed to a full Learning Review or if other reflective and review processes may be an appropriate and proportionate response.
- 3.4 The Senior Officer Case Review Group, with addition of the Chair of Shetland Public Protection Committee, and the Lead Officer Public Protection, will consider all the information and the chronology provided by the Lead Officer

Public Protection. For the Senior Officer Case Review Group meeting agenda item considering a potential Learning Review, the Chair of Shetland Public Protection Committee will also chair the Senior Officer Case Review Group.

3.5 The Senior Officer Case Review Group has the following options:

- In the interests of proportionality and learning, to decide that the initial information gathering and chronology is in itself enough to understand what happened in the case and there is no requirement for further work and that there can be learning shared and recommendations made which will improve interagency practice. If the Senior Officer Case Review Group make this decision, then recommendations and any actions should be drafted.
- To request a full Learning Review, develop a remit for the Review and also make some recommendations as to how the Learning Review will be conducted (eg the appointment of an independent external consultant as Reviewer either to work singly or with an internal inter-agency review team; or the appointment of an internal reviewer to work singly or with an inter-agency review team). A full Learning Review will follow the National Guidance for Learning Reviews 2021 and it would be helpful, if, at this point the Senior Officer Case Review Group consider whether or not the review should involve the Adult at Risk and the family. This should happen wherever possible. The Senior Officer Case Review Group should also consider any parallel processes. See below.
- To decide that the situation does not meet the criteria for an Adult Support and Protection Learning Review and either there is no further action required beyond what has been already put in place; or there is value in conducting some sort of further case review and what the remit of that is and who should conduct it.

3.6 The Senior Officer Case Review Group then has the responsibility to take their decision, which will form a recommendation, to Shetland Public Protection Committee and Chief Officers' Group. The Lead Officer Public Protection will use the proforma in the National Guidance to prepare a report for Shetland Public Protection Committee and Chief Officers' Group; and if it is appropriate, this will include a draft remit and a plan for conducting a full Learning Review. Shetland Public Protection Committee and Chief Officers' Group can agree with the proposal and remit or amend accordingly. In the interests of speed an additional Shetland Public Protection Committee and Chief Officers' Group meeting may be called to consider the Senior Officer Case Review Group's recommendation or with the permission of the Chair of Shetland Public Protection Committee and the Chief Officers' Group, amendments can be sought by email.

#### **4. Parallel Processes**

When an adult dies or is seriously abused or neglected there can be a number of complex parallel processes that can be required. Depending on the circumstances of the adult these can include, but are not limited to

1. Criminal investigation and prosecution
2. Sudden and Unexplained Death or suspicious death reported to the Procurator Fiscal by a medic or Police Scotland
3. Fatal Accident Inquiry
4. Health and Safety inquiry
5. Scottish Fire and Rescue Investigation
6. A Multi Agency Public Protection Arrangements Significant case review
7. A Mental Welfare Commission Investigation
8. An Office of the Public Guardian Investigation
9. Care Inspectorate Investigation
10. Any disciplinary investigations by professional registering bodies Scottish Social Services Council, General Medical Council, Nursing and Midwifery Council etc.
11. Adverse Events (NHS investigation following the Significant Adverse Events National Guidance)
12. Suicide Review

The National Guidance for Adult Support and Protection Learning Reviews has no specific agreements in place with the Crown Office Procurator Fiscal Service nor any other organisation in order that Learning Reviews can proceed timeously. Therefore it will be up to local negotiation and close communication to ensure that any proposed Learning Review does not interfere with other processes, avoids duplication of work and is also conducted within an appropriate timescale.

## **5. Conducting the Learning Review, Reporting to Shetland Public Protection Committee and Chief Officers' Group**

5.1 The Adult Support and Protection Learning Review will be conducted as recommended by Senior Officer Caser Review Group and agreed with Shetland Public Protection Committee and Chief Officers' Group and following closely the National Guidance. *'It is suggested that 28 to 42 days from the receipt of a referral would be an appropriate and realistic timeframe for the completion of this initial process. 'Once a decision has been made to undertake a Learning Review, the process should aim to be completed within a timeframe of six to nine months.'*

However the Review Team is constituted, the Lead Officer Public Protection and the Public Protection Team will provide administrative and organisational support.

5.3 The work of the Review Team will include a Family Liaison Strategy and staff engagement following closely the National Guidance. Staff involved in the case should be included in appropriate discussions either as part of a forum or individually as their insight into the situation is invaluable. Staff should be supported to be part of this process which can be distressing.

5.2 It should be noted that Adult Support and Protection Learning Reviews are intensive and challenging pieces of work that will require the full focus of the

Lead Officer Public Protection and the Public Protection Team and so will need to be prioritised over other work. Funding may need to be agreed with the Chief Officers' Group if an external independent consultant is appointed to conduct the Learning Review.

- 5.3 The Review Team and Reviewer can co-opt any additional support that will facilitate the work. For example in seeking the views of an adult or their family it may be appropriate to co-opt the support of someone that they have an existing positive relationship with or from the local advocacy service.
- 5.4 The final report will be written using the proforma in the National Guidance and will include either Findings (if the Social Care Institute for Excellence model is used by the Reviewers(s)) or recommendations. Wherever possible, family members and staff involved will have an opportunity to comment on a draft report. The Report will be shared initially with the Senior Officer Case Review Group.
- 5.5 The Senior Officer Case Review Group will provide the report- either a summary or the full Learning Review report as appropriate to Shetland Public Protection Committee and to Chief Officers' Group and also their recommendations for any follow up actions and a draft plan for sharing any learning. Shetland Public Protection Committee and Chief Officers' Group may amend or add as appropriate and a final action plan agreed.
- 5.6 The Senior Officer Case Review Group will take on responsibility for monitoring any follow up action plan and will report on progress to Shetland Public Protection Committee and to Chief Officers' Group with the assistance of the Lead Officer Public Protection and the Shetland Public Protection Committee Chair.
- 5.7 The Lead Officer Public Protection has the responsibility for notifying the Care Inspectorate of the Learning Review and providing them with a full copy of the Learning Review Report and any subsequent action plan.

## **6. Publication**

- 6.1 Given Shetland small size the utmost care with confidentiality is important. Decisions about sharing the full Learning Review Report or a summary report with staff and managers will need to be made by the Senior Officer Case Review Group and recommended to Shetland Public Protection Committee and to Chief Officers' Group.
- 6.2 It is unlikely that publishing the Learning Review Report or summary and placing that in the public domain would be appropriate, but there may be circumstances where this should be considered and a final decision will be made by Chief Officers' Group having also considered any legal advice in respect of data protection.

## **Appendix 10**

### **Gender Based Violence**

#### **1. Introduction**

This protocol is designed to give information about:

- Gender-based violence – what it is and how it affects women and girls;
- The circumstances when an adult protection or child protection referral may be required;
- Information about response to gender-based violence - Multi-agency Risk Assessment Conference (MARAC), the Safe and Together approach, and local services which may assist.

This protocol sits as Protocol 2 in the 2024 Shetland Interagency Child Protection procedures and Appendix 10 of the 2024 Adult Protection procedures.

Gender-based Violence will not always need a response under adult or child protection procedures, but it is important to be clear that responding to the risks posed by gender-based violence is an integral part of public protection and the promotion of a safe Shetland that respects and cares for all members of the community. A basic level 1 Gender Based Violence e-learning is available on Shetland Islands Council iLearn, NHS Shetland TURAS and for anyone else on the [www.safershetland.com](http://www.safershetland.com) website. In addition Level 2 half day training is available – please contact Shetland Islands Council Workforce Development for more information.

#### **2. Gender-Based Violence**

##### **2.1 What do we mean by gender?**

Gender refers to the characteristics of women, men, girls and boys that are socially constructed. This includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other. As a social construct, gender varies from society to society and can change over time.

Gender is hierarchical and produces inequalities that intersect with other social and economic inequalities. Gender-based discrimination intersects with other factors of discrimination, such as ethnicity, socioeconomic status, disability, age, geographic location, gender identity and sexual orientation, among others. This is referred to as intersectionality.

##### **2.2 What is Gender-Based Violence?**

Gender based violence includes intimate partner abuse, domestic abuse, coercive control, emotional abuse, sexual assault, rape, sexual harassment, image-based abuse, reproductive abuse, childhood sexual abuse, sexual exploitation, forced marriage, stalking, grooming and “honor killings.”

Gender-Based Violence includes all forms of domestic abuse – physical, verbal, sexual, psychological or financial abuse which takes place within the context of a relationship (please see section below in respect of child protection).

### **2.3 Prevalence of Gender-Based Violence**

Statistics can give an indication of the level of gender based violence but it is important to note that most incidents of coercive control and abuse are not reported so published statistics will be an underestimate of what is actually happening.

- Scottish Government estimate that 1 in 3 women experience abuse in their lifetime.
- There are over 100 reported cases of domestic abuse in Shetland every year. In Scotland the police recorded 64,807 incidents of domestic abuse in 2021-22.
- Where gender information was recorded, around four-in-five (81%) incidents of domestic abuse in 2021-22 involved a female victim and a male suspected perpetrator. This increased slightly from 80% in 2020-21.
- In 2021-22, 15% of domestic abuse incidents involved a male victim and a female suspected perpetrator (where gender information was recorded). This decreased slightly from 16% in 2020-21.
- On average, one woman is killed by a man every 3 days in the UK. One hundred and ten women were killed by men in 2020.
- In 2021-22 Shetland Women's Aid supported 103 women. This is a slight decrease from 2020-21 with 117 women being supported. Women's Aid Children's Services for 2021-22 supported 62 children which was an increase from 45 in 2020-21.
- In 2021-22, 94 people accessed help from The Compass Centre (Shetland Rape Crisis). This was 84 women, 9 men and 1 non-binary. This is a 38% increase from a record high of 68 (62 women and 6 men) in 2020-21.
- In 2018-19, 2,673 children in Scotland were referred to the Reporter under section 67(1)(f) of the Children's Hearings (Scotland) Act 2011, due to a "close connection with a person who has carried out domestic abuse" (SCRA 2019). This does not include children referred on other grounds who may also have experienced domestic abuse.
- For the estimated 2,668 children on the child protection register at 31 July 2018, there were 6,830 concerns relating to domestic abuse at the case conferences at which they were registered.

### **2.4 What about men?**

Although statistics give a very clear picture that gender-based violence impacts mainly on women and girls, men can also be affected.

- The vast majority of men are not perpetrators of abuse and have a key role to play in preventing and challenging domestic abuse and other forms of GBV.
- Men may be at lower risk of experiencing gender-based violence than women - it is important to recognise that there are men within local communities who are, or have, experienced domestic abuse and/or other forms of physical, sexual and emotional abuse as an adult or a child.
- Gender stereotypes around 'masculinity' may prevent men from recognising that they have experienced such abuse. It may stop them from seeking support. Men

who experience abuse may not know how to access specialist support services and/ or may not know which services are open to them.

- A gendered approach is required in ensuring systems understand the differing needs of men as victims, as men may experience abuse in different ways to women, and report different long-term impacts.
- Gender stereotypes around masculinity make some men believe they are entitled to use violence and abuse in order to feel powerful and in control.
- Men experiencing stress, financial difficulties and frustration with their lives may be more likely to perpetrate abuse. Personal difficulties are never an excuse for harming another person, but it is important that systems and services are in place that recognise the relationship between gender and the perpetration of abuse and can ensure perpetrators are held to account for and supported to change these harmful behaviours.
- Scotland's Equally Safe strategy is committed to increasing perpetrator accountability for their actions and challenge the behaviours and attitudes which have normalised the prevalence of this abuse.

### **3. Systematic responses to Gender-Based Violence – National and Local Resources**

#### **3.1 Multi-Agency Risk Assessment Conferences**

Multi-Agency Risk Assessment Conferences are local meetings where representatives from statutory and non-statutory agencies meet to discuss individuals at high risk of serious harm or murder as a result of domestic abuse. A referral to a Multi-Agency Risk Assessment Conferences should be considered at the point this risk is identified. Multi-Agency Risk Assessment Conferences can play a vital role in terms of safety planning for victims of domestic abuse and their children. Safelives, a UK-wide domestic abuse charity, has developed a suite of resources to help ensure that each Multi-Agency Risk Assessment Conference keeps as many victims of domestic abuse as possible safe. Multi-Agency Risk Assessment Conference has been in place in Shetland since 2013 and, on average, responds to 20 to 25 cases per year which fall into this high risk category. Specific Multi-Agency Risk Assessment Conference risk assessments are completed mainly by Police Scotland and Shetland Women's Aid, although other professional in Social Work, NHS services and Housing can also be trained to do this. Where these risk assessments identify high risk cases a referral to the Multi-Agency Risk Assessment Conference coordinator is made who then ensures the situation is discussed at the next Multi-Agency Risk Assessment Conference meeting.

#### **3.2 Multi Agency Tasking and Coordination**

Multi-Agency Tasking and Coordination is a Police Scotland-led and chaired initiative to identify and manage the most harmful domestic abuse perpetrators. Multi-Agency Tasking and Coordination aims to effectively tackle offending by domestic abuse perpetrators who present the greatest risk of harm. It does this through:

- effective partnership working to identify those domestic abuse perpetrators who present the greatest risk of harm;
- multi-agency information sharing to support intelligence development and proactive enforcement action against identified perpetrators;

- using tasking and co-ordination to proactively investigate identified perpetrators, using relevant and legitimate tactics.

### **3.3 Safe and Together**

The Safe and Together system of protecting children and young people by working in partnership with the non-abusing carer and holding the perpetrator to account is in the process of being introduced to Shetland Social Work Services.

The Safe and Together Model is based on partnering with domestic abuse survivors and intervening with domestic abuse perpetrators in order to ensure the safety and wellbeing of children. The Safe and Together approach includes principles and elements essential to safe practice. These are to:

- keep the child safe with the non-abusive parent;
- form a supportive partnership with the non-abusive parent;
- hold the abusive parent accountable for their abuse.

Within this approach, practitioners from statutory and non-statutory agencies work collaboratively and reach consensus to ensure the safety and wellbeing of children living with domestic abuse (Humphreys, Healey and Mandel 2018). Practitioners will:

- locate responsibility for the abuse with the perpetrator and recognise their abuse is a parenting choice;
- get as much information about fathering and father's parenting choices as about mothering and find out about the pattern of abuse and how this affects choices available to the non-abusing parent;
- explore the perpetrator's pattern of coercive control to identify all forms of abuse and control in both current and previous relationships, rather than outlining singular incidents of physical violence;
- assess how abuse has harmed the child, including descriptions of direct physical, emotional and sexual abuse from the perpetrator to the child, as well as the way in which the domestic abuse has harmed them;
- assess wider wellbeing impact upon the child;
- define how the non-abusing parent has promoted the safety, wellbeing, stability and nurture of their children;
- assess the interaction of other factors like substance abuse, mental health, culture, and how other socio-economic factors are considered and addressed.

### **3.4 Respect**

This is a programme used by social workers in the Justice Team to work with court and non-court mandated offenders who have been convicted of domestic abuse offences. It also includes supporting the victim of the offence. Shetland Women's Aid support this programme if the victim is a woman.

### **3.5 Local and National Resources**

The safer Shetland website ([www.safershetland.com](http://www.safershetland.com)) has a comprehensive list of local and national resources and has a specific section on domestic Abuse and gender based violence [Domestic Abuse and Gender Based Violence | Shetland Public Protection Committees \(safershetland.com\)](#)

## **1. How to respond to Gender-Based Violence**

Given the prevalence of gender-based violence, it is highly likely that most people will encounter it at some point in their life – either personally or within their family or friends or professionally. It is important to know how to respond safely, where and when to seek advice and when referrals into adult or child protection maybe needed.

When responding to any situation that is potentially abusive, it is always important to ensure that the response made does not increase the risk to the person being harmed. Any approach which alerts the perpetrator so that they have an opportunity to increase control and isolate the victim further should be avoided. Other than situations of immediate physical risk, a careful and trauma informed approach is the appropriate response.

If you are aware that someone is potentially in a situation of gender based violence, the best approach is as follows.

1. To take time and care and find a safe and confidential space to ask the person if they are okay.
2. Share honestly what your concerns are and that you want to help;
3. Give them time and space – the person may not see themselves as being in a harmful situation. Many people assume that gender-based violence or domestic abuse is about physical harm and the fact that a partner is controlling their money, dictating what they wear or isolating them from family may not be seen initially as abuse.
4. Although it may be tempting to take control or offer to “sort-out” the problems, it is important to empower people to make their own choices about their lives.
5. Do not be disappointed or feel rejected if the person initially denies or rejects help. Stay in touch and let them know that you are there to give support in a non-judgemental way.
6. If the concern is for a colleague at work then both NHS Shetland and Shetland Islands Council have clear domestic abuse policies in place to assist employees ,and line managers can offer advice and support;
7. Do not approach the perpetrator or seek to address their behaviour as this will raise the risk to the person you are concerned about.
8. Be mindful of people who may be at increased risk – adults with learning disabilities, mental health problems, pregnant women, or women who have recently left an abusive relationship. The perpetrator may seek to exert extreme control when a survivor has left a relationship and this can escalate into stalking, harassment and physical violence.
9. Seek advice on how to help from local services – the Compass Centre and Shetland Women’s Aid.

10. Consider if the situation you are concerned about may fall under adult or child protection and seek advice from the relevant Social Work Department if you are concerned that a child or adult is or may be at risk.

## **2. Gender-Based Violence and Adult and Child Protection**

Shetland Interagency Child Protection 2024 and Shetland Interagency Adult Protection 2024 Procedures include this Domestic Abuse and Gender Based Violence Protocol.

- Any member of staff working in any agency or third sector organisation can access the protocol for advice and support if they become aware of someone living with Gender-Based Violence/domestic abuse.
- Adults who would not meet the criteria for an adult at risk and/or who are not living with children may still need the right help and support to assist them and it would always be appropriate to find safe ways to offer advice - even if the adult is not at a point where they can accept that. See Section 4 above.
- In high risk situations referral to Multi-Agency Risk Assessment Conference can be made without consent. Seek advice from Duty Social Work, Police Scotland or Shetland Women's Aid about risk assessment and referral to Multi-Agency Risk Assessment Conference.
- If there is significant risk to a child or a vulnerable adult then staff have a duty to make an adult or child protection referral and should consult with the Children and Families Duty Social Work or the Adult Services Duty Social Work. Consent is not required to make an adult or child protection referral.

### **5.1 Adult Support and Protection**

The following three point criteria is used by adult social work to access if an adult is an adult at risk of harm.

Adults "at risk" are adults aged over 16 who:

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

All three points of the definition need to be met.

Shetland Adult Protection Procedures 2023 give clear information about the Adult Support and Protection (Scotland) Act 2007 and also the Stepwise guide to follow if an adult could be at risk.

Gender-based violence can be linked with other forms of harm. For example care staff may become aware of financial harm, but that could be linked to coercive control and be part of a bigger picture.

Adults affected by learning disabilities, mental health problems or substance use issues may be more vulnerable to exploitation and abusive relationships.

When adults require support and care at home, carers and NHS staff may become aware of a domestic abuse situation which could have existed for many years behind closed doors. Even if this is the case it will still be appropriate to seek advice and guidance as there should be a zero tolerance approach to gender-based violence.

In any situation where there is a risk or potential risk to an adult, it will always be appropriate to follow the Stepwise guide and seek advice from a line manager, and, if needed, Duty Social Work from the Adult Social Work team.

## 5.2 Child Protection

The National Guidance for Child Protection (2021) [National guidance for child protection in Scotland 2021 - gov.scot \(www.gov.scot\)](#) has in Section 4 information about the impact of domestic abuse on children and young people as follows.

**Domestic abuse** is any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct and which takes place within the context of a relationship. The relationship may be between partners (married, cohabiting, in a civil partnership or otherwise), or ex-partners. The abuse may be committed in the home or elsewhere, including online. Domestic abuse includes degrading, threatening and humiliating behaviour predominantly by men and predominantly towards women. It is a gendered crime and is underpinned by attitudes and inequalities between men and women that continue to be prevalent in society. It may be committed in the home or elsewhere; and may include online activity. There is significant evidence of links between domestic abuse and emotional, physical and sexual abuse of children, and children themselves can experience domestic abuse as 'coercive control' of the whole family environment, not just of their mother.

**Violence against women and girls** refers to a range of actions that harm, or cause suffering and indignity to, women and children. These include but are not limited to physical, sexual and psychological violence in the family, general community or in institutions. This includes domestic abuse, rape, incest and child sexual abuse; sexual harassment and intimidation at work, online, at home or in public; commercial sexual exploitation including prostitution, pornography and trafficking; and so called 'honour-based' violence, including dowry-related violence, female genital mutilation, forced and child marriages, and 'honour' crimes. The Scottish Government's definition of violence against women and girls is based on the United Nations Declaration on the Elimination of Violence Against Women (Equally Safe: national strategy). Article 19 of the UNCRC requires public authorities to take all appropriate measures in relation to protection of children from all forms physical and mental violence, injury or abuse etc.

**Emotional and psychological harm.** Children are harmed by experiencing behaviour that is, intimidating and degrading, threatening, exposing of intimate information, or accusing and blaming. Coercive and controlling behaviour is also harmful. Examples of coercive and controlling behaviour include when the child and non-abusive parent are isolated from friends and family, or when abusers cut off the non-abusive parent's access to a phone or a bank account. Chronic trauma can disrupt attachment, achievement, concentration and wider relationships. The traumatic impact of

domestic abuse is often masked, and emerges indirectly in anxious or troubled behaviours in teenage years.

**Abuse between young people.** Young people may experience abuse and coercive control in their own relationships outside of the family home. As within adult domestic abuse, this can include physical, sexual and emotional abuse. This is often unrecognised, and victims may choose not to disclose it. Social media and digital technology may be used to perpetrate the abuse.

The **child protection response** by statutory agencies will depend on professional judgement about the risk of harm and the urgency of the circumstances. Domestic abuse is always a wellbeing concern. It may be a child protection concern if there is evidence that significant harm has occurred or may occur. Professional judgement involves consideration of key factors such as the child's experience, needs and voice (and those of other children affected); the non-abusing parent's views, choices, strengths and abilities to use available supports; the presence of other complicating factors such as parental alcohol and drug use; and the abuser's pattern of coercive control.

If a child or young person up to the age of 18 (or over the age of 18 in situations where the young person is still attending school) and there is a risk of significant harm or assess that there is possible risk then it is appropriate to follow the Stepwise Guide in the 2023 Child Protection Procedures and contact a line manager and the Duty Social Work from the Children's Social Work team.

## **Appendix 11**

# **Shetland Appropriate Adult guidance**

### **1. Introduction and background**

#### **Introduction**

1.1 Statutory guidance has been published by the Scottish Ministers under the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”) and contains information for local authorities pertaining to the delivery of Appropriate Adult services and related training duties. Local authorities must have regard to this guidance when undertaking these functions. Those using this guidance are advised to have an awareness of the relevant legislation.

Sections 99 to 101 of the 2016 Act allow Ministers to confer the functions of:

- ensuring the availability of Appropriate Adults;
- the assessment of quality of Appropriate Adult support; and
- the training of Appropriate Adults.

#### **Policy Context**

1.2 Appropriate Adults provide communication support to vulnerable victims, witnesses, suspects and accused persons, aged 16 and over, during police investigations. Shetland has provided an Appropriate Adult Service since the 1990s- latterly under the oversight of the Adult Protection Committee and more recently under the Shetland Public Protection Committee

The development of a sustainable Appropriate Adult service with national oversight to promote consistency is seen as necessary in supporting the commencement of a new duty in Section 42 of 2016 Act which requires the police to request support for vulnerable individuals in their custody.

#### **Legislation**

1.3 The primary legislation is the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”). Part 1 of the 2016 Act, which includes section 42, as set out below, applies to Police Scotland and other forces with power of arrest in Scotland.<sup>1</sup>

The following sections summarise the relevant provisions in the 2016 Act for the information of local authorities:

Section 42 – Support for vulnerable persons in police custody

Section 42 of the 2016 Act places a duty on the police to facilitate support for vulnerable persons in police custody.

Section 42(1) applies where:

- a person is in police custody,
- a constable believes that the person is aged 16 or over, and
- owing to a mental disorder, the person appears to the constable to be unable to:
  - understand sufficiently what is happening, or
  - communicate effectively with the police.
- Section 42(3) defines the support that the police should provide for the vulnerable person as being support to:
- help the person in custody understand what is happening, and

- facilitate effective communication between the person and the police.

The meaning of mental disorder is taken from Section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and includes any:

- mental illness;
- personality disorder; or
- learning disability

however caused or manifested.

### **Responsibility for ensuring availability of Appropriate Adults and requesting an Appropriate Adult**

1.4 This duty has been placed on local authorities to the extent that each local authority has the function of ensuring that people are available to provide Appropriate Adult support when it is required within that local authority area. Shetland Islands Council through the Adult Social Work Service has a duty to provide Appropriate Adults when requested to do so by Police Scotland

Police will determine whether an Appropriate Adult is required, and will make a request to Shetland Adult Social Work through the Duty Social Work System. A [referral form](#) should be completed for each Appropriate Adult request.

The Adult Social Work team holds a list of approved and trained Appropriate Adults, and will contact those on the list to see if anyone is available. The processes for identifying Appropriate Adults during office hours, and out of hours are summarised in the [flowcharts](#) following this procedure. Adult Duty Social Work will endeavour to identify an Appropriate Adult from the list of volunteers; however there may be instances where an Appropriate Adult cannot be identified and the reasons for this should be recorded.

Appropriate Adults may be required to provide a witness statement at the end of their involvement to record their views on how the Police interviews were conducted, and any pertinent observations regarding the person being interviewed. A sample of the [Police Witness Statement](#) pro-forma is attached behind this Guidance.

### **Police Responsibility and Procedures**

1.5 The decision to request Appropriate Adult support lies with the police and local authorities must ensure that people are available to provide such support when the police request it.

The following sections set out steps that the police are expected to take in relation to Appropriate Adult requests and are included in this guidance for information for local authorities.

### **Criteria for requesting an Appropriate Adult**

1.6 As set out in the 2016 Act the police must provide support for persons in custody who are unable to understand sufficiently what is happening or communicate with the police because of a mental disorder. In practice, this support is provided by an Appropriate Adult.

While the duty on the police in section 42 of the 2016 Act relates specifically to vulnerable adults in police custody, the police also use Appropriate Adult services to provide the support outlined in section 42 of the 2016 Act for all vulnerable adults who require it during police investigations, including victims and witnesses.

The term “mental disorder” covers a wide range of illnesses and conditions, including autism spectrum disorder, attention deficit hyperactivity disorder (ADHD), acquired brain injury (including alcohol related brain damage) and dementia.

Appropriate Adults should not be requested for individuals whose communication and/or understanding is impaired solely due to the influence of alcohol or drugs at the time of involvement with the police, or solely due to physical impairments or language barriers (i.e. situations where an interpreter is required). An Appropriate Adult should be requested, however, if a person who requires the assistance of an interpreter also meets the criteria set out in the relevant sections of the 2016 Act.

It is recognised that not all individuals who may require Appropriate Adult support will have a formal diagnosis, nor may they be able or willing to share any diagnosis with the police. In circumstances where a diagnosis cannot be confirmed but it is clear that the individual cannot understand procedures or communicate effectively with the police, and that the cause of such difficulty is not solely because of substance use/intoxication, then Appropriate Adult support should be requested.

Communication or comprehension issues related to mental health can be fluid and change relative to circumstances, so an individual who requires an Appropriate Adult on one occasion may not require such support if they come into contact with the police again. Similarly, an individual who has a mental disorder may not experience any communication or comprehension difficulties during the course of their contact with the police, so an Appropriate Adult may not be required.

“Mental disorder” as defined in section 328 of the Mental Health (Care and Treatment) Scotland Act 2003

If an officer believes that a person requires an Appropriate Adult and that person declines this assistance, an Appropriate Adult should still be requested and given the opportunity to explain their role to the person. If, after meeting the Appropriate Adult, the person still refuses this service it is for the police to decide how to proceed. In all cases where consideration has been given to an Appropriate Adult but one is not used, the reason for this should be recorded by the police.

Appropriate Adults do not provide support for children aged under 16, but should be used for 16 and 17 year olds who are deemed by certain legislation to be children while under the age of 18 (for example, under the Human Trafficking and Exploitation (Scotland) Act 2015), or are subject to Compulsory Supervision Orders, if they meet the definition of a “vulnerable person” as set out in the 2016 Act.

Appropriate Adults should not be requested for individuals who lack capacity, as defined in the Adults with Incapacity (Scotland) Act 2000. If an Appropriate Adult attends a request and feels that this definition applies to the person they are supporting the Appropriate Adult should relinquish their participation and the police should obtain assistance from a relevant specialist.

Referrals may also come from HMRC, Border Forces and other agencies – all will be dealt with as per these procedures by a referral coming in through Adult DSW.

### **Procedures**

1.7 There is no exhaustive list setting out police procedures which an Appropriate Adult should attend and local authorities have a duty to meet all relevant requests from the police for Appropriate Adults.

Police Scotland is currently reviewing and updating the Standard Operating Procedures (SOP) document which relates to Appropriate Adults. <https://www.scotland.police.uk/spa-media/zvvpbczl/appropriate-adults-sop.pdf>

Police should be **present during all contact between the Appropriate Adult and the person** who is being supported.

If a person requires Appropriate Adult support, the relevant police procedure should not begin until the Appropriate Adult is present, and the Appropriate Adult should

be given an opportunity to speak with the person they are supporting, in the presence of the police, before any procedures begin.

Procedures should only commence before an Appropriate Adult arrives where a delay may lead to the interests of justice being defeated. If any procedures do commence before an Appropriate Adult arrives, any information about rights and entitlements should be repeated to the person who is being supported, in the presence of an Appropriate Adult.

Section 33(2)(c) of the 2016 Act provides that a person in custody who is entitled to Appropriate Adult support cannot consent to being interviewed without having a solicitor present. It is for the police to decide on what course of action to take if there are any issues in relation to this provision.

A witness statement should be noted by the police at the conclusion of the Appropriate Adult's involvement in proceedings and any notes made by the Appropriate Adult should be taken as a production by the police. If the Appropriate Adult attends for proceedings that take place on another date or dates as part of the same case, then an addendum statement or statements should be noted.

### **Recruitment**

1.8 In Shetland the Executive Manager for Adult Social Work takes overall responsibility for the AA service. They will ensure that the recruitment, training, availability and support of Appropriate Adults is proportionate to levels of demand. The Manager of the Shetland AA service will ensure that all Appropriate Adults who are recruited meet the criteria set out below and that there is a commitment to equality, inclusivity and diversity in terms of recruitment.

The criteria are:

- experience (in a professional, voluntary or personal capacity) of working with adults who have a mental illness, personality disorder, learning disability or related condition
- experience of assisting vulnerable adults with communication
- successful completion of nationally recognised training
- be a member of the PVG scheme (enhanced disclosure)

Individuals who apply to become Appropriate Adults should be made aware that they may have to assist in circumstances which they may find distressing and challenging, and may also have to attend court as a witness.

### **Training for Appropriate Adults**

1.9 All Appropriate Adults will undertake training in relation to their role and responsibilities. Shetland Islands Council will provide this training, in conjunction with the Scottish Appropriate Adult Network, which has produced a national training pack for appropriate adult schemes throughout Scotland. Training will include Initial Training, Refresher Training (every 3 years) and on-going support and development (including regular team meetings, briefings and one to one discussions).

The Scottish Government has established a stakeholder group to develop a national Appropriate Adult training framework. This framework will build on existing training and identify good practice which should be incorporated into local Appropriate Adult training across the country. The work of this group is ongoing and this guidance will be revised to take account of the framework when it is implemented.

## **Management of Appropriate Adult Service**

1.10 Shetland Island Council will provide the Appropriate Adult Service to meet its statutory duty through the Adult Social Work Team- It is not intended to commission a third party to provide the service given the small numbers of AA required annually ( between 2 and 10 per year ).

Shetland Public Protection Committee will provide strategic oversight rather than create a separate management or steering group. Day to day management of the service is detailed below

Shetland Public Protection Committee is responsibility for:

- guidance to be included in the Adult Protection Procedures
- policy development, including – recruitment, training, confidentiality, health and safety, insurance, complaints
- approval of local inputs for national reports

### **1.11 The role of the Appropriate Adult Responsible Manager**

- managing the day-to-day operation of the service
- administering the service
- coordinating the Office Hours and Out of Hours service
- recruitment of Appropriate Adults, including PVG applications
- implementing and organising training in accordance with this guidance
- coordinating monitoring and evaluation of the service
- operating a complaints procedure
- chairing Appropriate Adult meetings
- reporting to SPPC on an annual basis
- attending local and national meetings to sustain the development of the service
- engaging with local stakeholders to raise awareness of the service and the role of the Appropriate Adult
- producing local inputs for national reports
- ensuring staff welfare

The Responsible Manager will be assisted by the Business Support Administration Officer for the Chief Social Work Officer in the task listed above.

Those acting as Appropriate Adults are employees of Shetland Island Council Adult Social Work or Social Care Services and are appointed by Adult Social Work. Their Line Manger is able to provide assistance and support in respect of their role as AA. Any issues that the Line Manager is unable to assist with can be referred to the responsible manager. Shetland Islands Council HR services provide accessible counselling and staff welfare services if these are required by any employee.

Appropriate Adult services should be seen in the context of a framework of services that provide support for vulnerable adults in the areas of criminal justice, health and social care. In Shetland the Shetland Public Protection Committee (SPPC) holds this function and the AA Service is a standing item on this multiagency committee which involves, representatives from the police, NHS and other organisations who have a role to play in adult protection.

### **Fulfilling requests for Appropriate Adults**

1.12 Police will determine whether an Appropriate Adult is required, and will make a request to Adult Social Work department through the Duty Social Work System. A [referral form](#) should be completed for each Appropriate Adult request.

The Adult Social Work team holds a list of approved and trained Appropriate Adults, and will contact those on the list to see if anyone is available. The processes for identifying Appropriate Adults during office hours, and out of hours are summarised in the [flowcharts](#) following this procedure. The Council will endeavour to identify an Appropriate Adult from the list of volunteers; however there may be instances where an Appropriate Adult cannot be identified and the reasons for this should be recorded.

Appropriate Adults may be required to provide a witness statement at the end of their involvement to record their views on how the Police interviews were conducted, and any pertinent observations regarding the person being interviewed. A sample of the Police [Witness Statement](#) pro-forma is attached at the end of guidance.

### **Role of an Appropriate Adult**

1.13 The role of an Appropriate Adult is to facilitate effective communication between the Police and adults (people aged 16 or over) who have a mental disorder. Mental disorder is defined in the Mental Health (Care and Treatment) (Scotland) Act 2003 as: 'any mental illness, personality disorder, or learning disability, however caused or manifested.' In practice this might include people with acquired brain injury, autism spectrum disorder, or dementia.

In circumstances where an adult is required to be interviewed by police, either as a victim, witness, suspect, or accused; an Appropriate Adult may be sought to support the process. An Appropriate Adult can be present at every stage of an investigation including searches, interviews, medical examinations, the taking of forensic samples, photographing, fingerprinting, and identity parades.

The role of Appropriate Adult is entirely different to that of a Responsible Adult. A Responsible Adult is any adult who has legal responsibility for a child, and could be a parent, carer or officer of the local authority.

### **The role of an Appropriate Adult is to:**

- To facilitate communication between the Police and the adult, according to the individual's needs
- Ensure the adult understands, and continues to understand police processes, and the questions being asked of them
- Ensure as far as possible that the adult understands their rights as explained by the Police
- To provide support and reassurance to the adult and to actively raise any concerns about person's communication needs or welfare with the police or other relevant individuals
- To prompt the suspension of an interview in a manner agreed in advance with the interviewing officer in order to discuss with the police any concerns, or that the interview should be terminated (for example, if the adult becomes distressed)

Remain independent and objective at all times

- An AA can intervene in a Police interview if required as agreed prior to the start of the interview – See Aide Memoire (Find in AA information folder).
- It is not the role of an Appropriate Adult to provide a formal assessment.

*If the police determine that such an assessment is required then they should consult with a relevant specialist. (it is acknowledged the Police Scotland SOP will require reviewing to consider pathways for provision of 'relevant specialist')*

### **When carrying out this role, an Appropriate Adult is expected to:**

- have an awareness of police procedures
- be able to explain the role of an Appropriate Adult and convey information about proceedings in a manner appropriate to the needs of person they are supporting
- ensure, as far as possible, that the police and any other relevant individuals are aware of information that assists with the facilitation of communication
- where applicable, ensure, as far as possible, that the person is able to give informed consent to procedures
- be aware of and follow local arrangements and protocols

Appropriate Adults are not professionally qualified to provide a formal assessment of an individual's health or communication abilities. If the police believe that such an assessment is required then they should consult with a relevant specialist. If an Appropriate Adult feels that someone requires more support to understand what is happening than they can provide, or feels unable to facilitate effective communication between the person and police, they should inform the police of this so that steps can be taken by the police to secure the right type of assistance.

### **Attending a request**

1.14 As the AA service is provide by Shetland Islands Council employees can use their SIC ID badges with the addition of the AA Identity Card.

Appropriate Adults should attend requests with minimum delay of the request being received. If delays impact on provision the management structure should take steps to address the issue.

Police should be present during all contact between the Appropriate Adult and the person who is being supported.

On arrival, the Appropriate Adult should be passed all relevant information by the police and be given an opportunity to speak with the person they are there to support. The police should be present during this meeting. During the initial meeting with the person they are supporting the Appropriate Adult should:

- explain their role and ensure, as far as possible, that the person understands the explanation that has been given
- explain that the Appropriate Adult cannot give legal advice or speak about the matter under investigation
- explain that if the person says anything to the Appropriate Adult which is of material relevance to the police investigation, the Appropriate Adult should disclose this
- identify how best to facilitate communication between the person and the police

Following the initial meeting with the person they are supporting the Appropriate Adult should make the police aware of any information which helps to facilitate communication. If the Appropriate Adult has any concerns about the person's ability and welfare to participate in proceedings this should be passed to the police,

but it is the responsibility of the police to decide if proceedings should continue. See Aide Memoire (Find in AA information folder)

### **Involvement in Police Procedures**

1.15 The police should explain to the person requiring Appropriate Adult support the procedure which is to take place and the Appropriate Adult should ensure, as far as possible, that the person they are supporting understands what is going to happen.

It is essential for Appropriate Adults to take an active role during proceedings to ensure that any communication issues are addressed. This means that an Appropriate Adult should make the police aware if they believe that the person they are supporting does not understand questions, procedures or statements, and also make suggestions in relation to adjustments or steps to be taken in order to help facilitate communication and reassure the individual.

The Appropriate Adult should ensure, as far as possible, that information provided by the person they are supporting is fully understood by the police.

Appropriate Adults should not advise the person they are supporting how to answer questions and should not intervene in procedures for any reason other than to help facilitate communication and ensure, as far as possible, that the right level of support is being provided.

### **After police procedures**

1.16 The police should note a statement from the Appropriate Adult detailing their involvement in procedures and any notes made by the Appropriate Adult should be taken by the police as a production. Appropriate Adults may be cited to court as a witness to give evidence about their involvement in police procedures. Find Citation Letters in Appropriate Adult Information folder.

If an Appropriate Adult has any concerns relating to the general wellbeing of the person they are supporting, separate from the police investigation and police procedures, they should make the concerns known to both the police and the Appropriate Adult Service Coordinator (or equivalent).

Local authorities must have regard to their duties under the Adult Support and Protection (Scotland) Act 2007 ("the 2007 Act") in relation to any adult protection concerns raised by Appropriate Adults. Every local authority must ensure that persons involved in Appropriate Adult services have an understanding of how the 2007 Act and its code of practice relate to the Appropriate Adult function, and have a clear policy about how concerns raised by Appropriate Adults are dealt with by the local authority.

### **Interaction with other professionals**

1.17 Appropriate Adults are not required to be present during a private consultation between the person they are supporting and the person's solicitor, or during a fitness for interview consultation with a forensic physician.

While the main role of the Appropriate Adult is to facilitate communication between the person they are supporting and the police, Appropriate Adults are expected to pass on any information concerning the person's communication needs to the

person's solicitor. This can be done directly by the Appropriate Adult or directed through the police, and should be captured in the Appropriate Adult's police statement.

If an Appropriate Adult has any concerns about the conduct of any professionals they encounter while carrying out their role, these should be raised with the police in the first instance and dealt with at the time. Any issues which relate specifically to the professional's interaction with the Appropriate Adult should also be reported to the Service Coordinator (or equivalent) for action if necessary.

### **Payment of appropriate adults**

1.18 SIC Social Care and social work staff acting as Appropriate Adults will often complete this task as part of their job and there will be no requirement for further payment. Any staff member who has worked additional hours or at times out with normal working hours should complete a Timesheet 2. (Find in AA information folder)

### **Recording and Statistics**

1.19 The function of Appropriate Adult is separate from the day to day responsibilities of the individual, and as such records should not be entered on SWIFT or similar. Appropriate Adult statistics are collated by the Adult Social Work duty team, and are provided annually to Scottish Appropriate Adult Network (SAAN).

### **Confidentiality**

1.20 What takes place during the interview is confidential and should not be discussed with anyone once the interview has taken place. Any request for information pertaining to the interview should be referred to the Police.

### **Complaints**

1.21 If anyone who has used the Appropriate Adults service in Shetland and needs to make a complaint this can be done through the Shetland Islands Council Complaint Procedure:-

[https://www.shetland.gov.uk/education/hpc\\_complaints\\_procedure.asp](https://www.shetland.gov.uk/education/hpc_complaints_procedure.asp)

### **Data Protection**

1.22 All information about Appropriate Adults call outs will be stored on the SWIFT system and information will be stored and comply with Data Protection and GDPR:-

<https://www.shetland.gov.uk/information-rights/documents/ShetlandIslandsCouncilstatementonGDPRcompliance.pdf>

### **Quality Assurance and Inspection**

The National Guidance for Appropriate Adults gives responsibility to the Care Inspectorate for inspecting services - at the time of writing this local guidance for Shetland it is not clear what form inspection will take so this section will need to be reviewed once this is clearer.

The Quality Assurance of AA services will fall to the Responsible Manager to set up through the Quality Assurance of Adult Protection Sub-Committee. This should include:-

- Annual Statistical report - number of AA callouts, any request not able to responded to, reason why an adult required an AA. The timing of this report can fit with the provision of national statistics and not create extra work
- Annual or Biannual Audit of a selection of AA cases - this could be developed once there is further information about how and what the Care inspectorate will develop

**REQUEST FOR APPROPRIATE ADULT**

**To be completed when a request is made for an Appropriate Adult**

<b>Date:</b>		<b>Time:</b>	
--------------	--	--------------	--

Request from:	Police Scotland	
	Other Statutory Body (specify)	
	COPFS/Scottish Court Service	

Request accepted:	<b>YES</b>		<b>NO</b>		If No, please give reason below
No AA available					
Do not provide AA's for court					
Other Reason (specify)					

Officer/person requesting	Name & Shoulder No. (Police)	Tel No.
Officer/person to ask for on arrival (if different from above)	Name & Shoulder No. (Police)	Tel No.
Date & Time Appropriate Adult required		
Location Appropriate Adult should attend		
Procedure(s) AA required for	SARF (Solicitor Access)	
	Interview (suspect/accused)	
	Statement (victim/witness)	
	Medical Examination	
	DNA / Fingerprints	
	VIPER Capture	
	VIPER Parade	
	Detention	
	Combination of Above	
	Facilitator in Court	
Other (specify)		
Name of person requiring services of an Appropriate Adult		
Date of Birth		
Address		

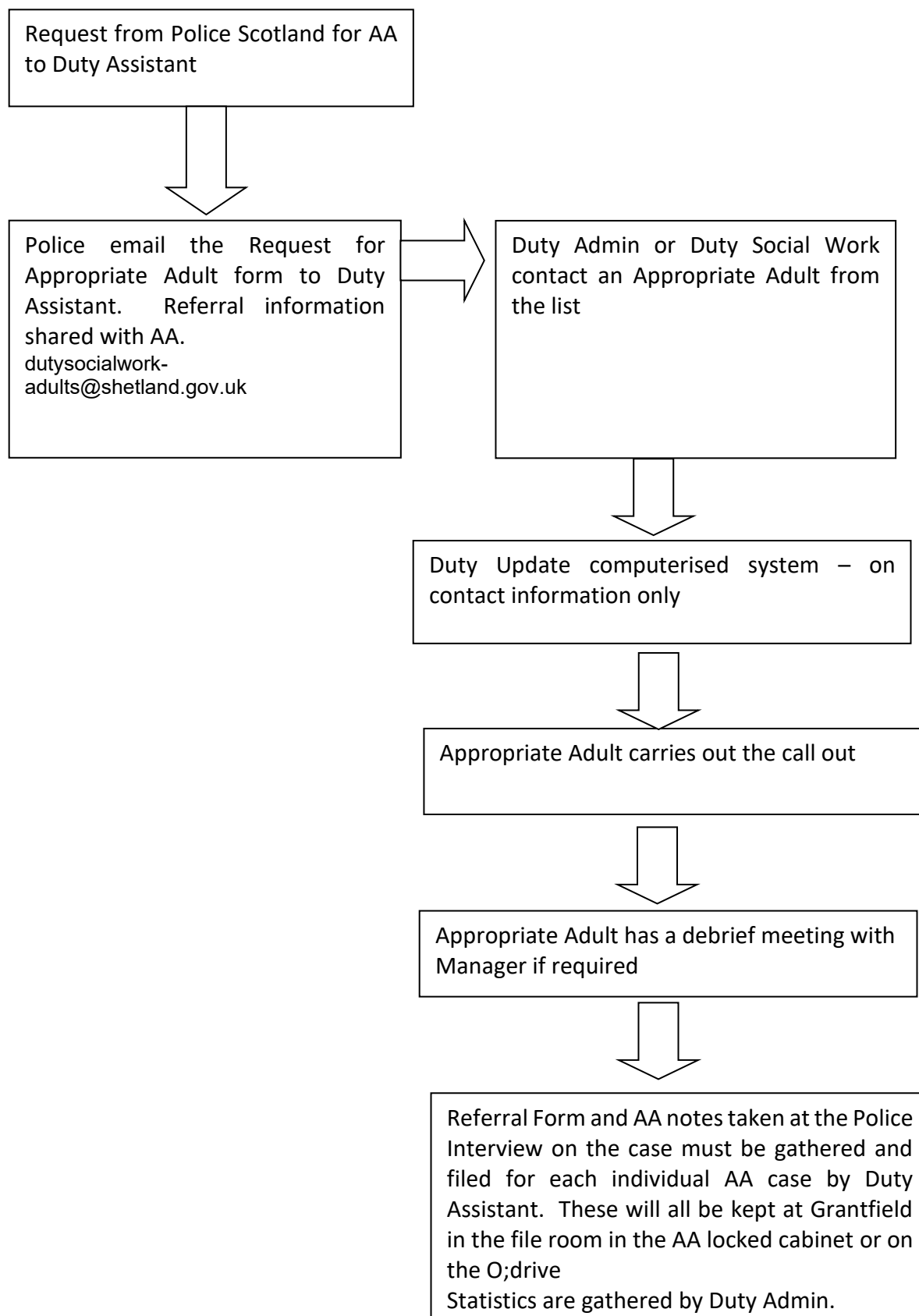
Gender	<b>Male</b>	<b>Female</b>	<b>Transgender</b>
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Mental Disorder	Learning Disability	Mental Health	Acquired Brain Injury	
	Dementia	Autism	ADHD	
	Other (please specify)			
Ethnicity	White	Mixed	Asian/Asian British	Black/Black British
				Other
Level of Literacy (if known)				
Additional Support Person attending (e.g. interpreter, sign language interpreter, speech & language therapist, carer etc.)				
Is a gender specific Appropriate Adult required?	Male	Female	No preference	
Nature of Crime involved (Police can provide this at time of request)	<b>Group 1 Crimes of Violence</b>			
	<b>Group 2 Crimes of Indecency</b>			
	<b>Group 3 Crimes of Dishonesty</b>			
	<b>Group 4 Fire Raising, Malicious &amp; Reckless Conduct etc.</b>			
	<b>Group 5 Other (eg Bail offences, offensive weapons, drugs)</b>			
	<b>Group 6 Miscellaneous (eg Breach of the Peace, Minor Assault, Communications Act)</b>			
	<b>Group 7 Offences relating to Motor Vehicles</b>			
	Suspicious Incident			
	Sudden Death Enquiry			
	Complaint against the Police			
	No Crime			
	Unknown			
Status of Person	Victim	Witness	Suspect	Accused
Name of Appropriate Adult who will be attending				
Estimated time of arrival of Appropriate Adult				
Has Officer/person been notified of AA attendance?	<b>YES / NO</b>			
Additional Information /Comments				

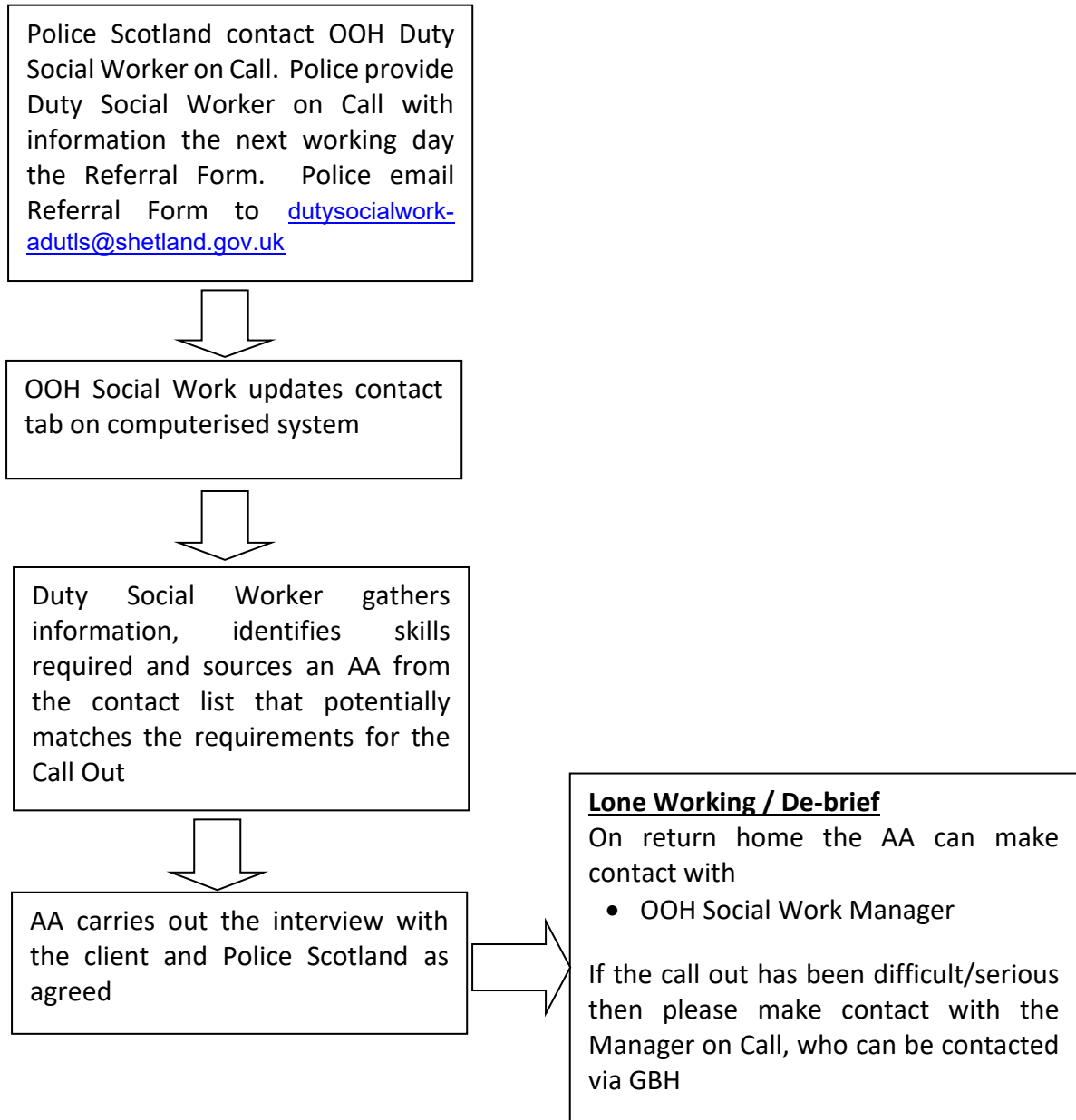
Signed:		Date:	
---------	--	-------	--

## Flow charts

### Flow Chart for Appropriate Adult Call Outs – Office hours



## Flow Chart for Appropriate Adult Call Outs – Out of Hours



Note – no requirement by AA to update computerised system due to GDPR.

SIC Lone Working Policy - [Lone Working Policy](#)

## Witness Statement

### WITNESS STATEMENT

**Agency ref:**

**PF Ref:**

---

**Surname:**

**Other or previous surname:**

---

**Forenames:**

**Age/dob:**

---

**Occupation:**

**Other:**

---

**Police Station:**

**Years service:**

---

**Disclosable address:**

---

---

---

**Post Code:**

---

**This statement was taken:**

**Date and time:**

**Place:**

---

**By:**

**In the presence of:**

---

**Other Persons Present:**

---

**I have/the witness signed/refused to sign this and all other pages**

---

**Source: Notebook / Statement Form / Operational Statement / Log / Other**

---

**It was/not read over to the witness and was/not recorded on Audio tape and/or Video tape**

---

**States:**

---

---

---

---



**CONFIDENTIAL MATERIAL – NOT TO BE DISCLOSED**

**Alias/known as:**

**Date and place of birth:**

---

**Forenames:**

**Age/dob:**

---

**Home address:**

**Telephone:**

**Post Code:**

---

**Business address:**

**Telephone:**

**Post Code:**

---

**Mobile:**

**Fax:**

---

**E mail:**

**Other:**

---

**Witness Type:** (Civilian, Police, Professional/Expert/Official Witness) (\*delete as appropriate)

---

**SCRO No. :** (Enter SCRO No. / 'No note of convictions' or 'Not Requested')

---

**Dates when witness unavailable in next 12 months:**

---

**Other Confidential Information:**

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## Appendix 12

### Shetland Missing Person Protocol

#### 1. INTRODUCTION

1.1 All agencies recognise the negative impact of people going missing. A missing person is exposed to unnecessary risk, is negatively impacted in terms of health and wellbeing and in a small number of cases it can lead to death.

1.2 In Scotland there are over 30,000 episodes of people going missing every year and all agencies recognise the demand this places on resources. A robust and consistent partnership approach is critical to prevent people going missing in the first place and to locate them quickly in the event of a missing episode.

#### 2. BACKGROUND

2.1 In May 2017 the Scottish Government published the National Missing Persons Framework for Scotland (NMPF) for Scotland that set out the following four objectives;

- To introduce **preventative** measures to reduce the number of episodes of people going missing.
- To **respond** consistently and appropriately to missing person episodes.
- To provide the best possible **support** to missing people and their families.
- To **protect** vulnerable people to reduce the risk of harm.

2.2 In Shetland the Missing Person Partnership Protocol was approved by the Shetland Public Protection Committee with representatives from Police Scotland; Shetland Islands Council; NHS Shetland; the 3rd sector; SIC Housing; Fire and Rescue Services with the aim of delivering on the requirements set out in the National Missing Persons Framework.

#### 3. PURPOSE

3.1 The purpose of this joint protocol is to:

- Mitigate the risk to the people who go missing.
- Provide a consistent approach for the relevant agencies when a person is missing.
- Ensure that the collective response delivers on the achievement of the objectives contained within the National Framework.
- Ensure that the use of the national definition of a missing person is consistent across partner agencies.
- Embed into involved agencies internal processes associated risk assessments.
- Set out the roles, responsibilities and actions to be taken by each agency in respect of missing persons.

- Ensure that individual agency protocols reflect the National Missing Persons Framework for Scotland and are subject to ongoing evaluation and review.
- Ensure that internal protocols are being disseminated and utilised consistently and appropriately within each agency.
- Ensure that there is robust single and joint self-evaluation and review of the processes contained within this protocol, the quality of Return Home Welfare Interviews and the impact on outcomes for missing persons.

3.2 As single agencies, we recognise that this partnership agreement will not take account of every specific missing person circumstance. However, it does incorporate principles of child protection, adult support and protection, public safety, collaborative decision making, statutory responsibility and duties of care. It places a significant responsibility and accountability on staff within each agency to work together, to share the rationale underpinning their professional judgements and to do so in a way that promotes joint working and enhances our ability to keep people safe. We recognise that this will provide challenges and that ongoing joint evaluation and decision making via the Shetland Public Protection Committee will be required to make this successful.

#### **4. DEFINITIONS**

- 4.1 All agencies will adopt the national definition of a missing person recommended by the NMPP.
- 4.2 A missing person is defined as anyone whose whereabouts are unknown **and:**
- Where the circumstances are out of character **or,**
  - The context suggests the person may be subject to crime **or,**
  - The person is at risk of harm to themselves or others.
- 4.3 It is critical to the success of this protocol that this definition is embedded into all internal protocols and procedures.
- 4.4 This protocol applies to all staff within the partnership agencies who are involved in any capacity with missing persons.
- 4.5 For the purpose of this protocol a child is defined as per [Section 93\(2\) \(b\) Children \(Scotland\) Act 1995](#) as
- A child who has not attained the age of 16 years,
  - A child over the age of 16 years, who has not attained the age of 18 years and in respect of whom a supervision requirement is in force
  - A child whose case has been referred to a children's hearing by virtue of a supervision order issued in England, Wales or Northern Ireland.

#### **5. RISK ASSESSMENT**

- 5.1 Prior to making the decision to report someone as missing each agency will assess the circumstances to ensure that the person meets the national definition of a missing person.
- 5.2 An initial risk assessment should be undertaken utilising the Police Scotland risk assessment questions (Appendices F and G) and the associated risk assessment matrix (Appendix H). The purpose of this is to accurately identify the risk attached to the incident and ensure that the response is proportionate and appropriate.
- 5.3 Once a missing person is confirmed, as per the definition at 4.0 above, a risk assessment must be undertaken by the agency who are reporting without delay using the following standard grading process:
  - **High Risk**  
The risk posed is immediate and there are substantial grounds for believing that the missing person is in danger through their own vulnerability; or may have been the victim of a serious crime; or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.
  - **Medium Risk**  
The risk posed is likely to place the missing person in danger or they are a threat to themselves or others.
  - **Low risk**  
The apparent threat of danger to either the missing person or the public is low.

## 6. REFERENCES

- 6.1 Whilst not exhaustive the following statutory legislation and guidance is relevant to this protocol:
  - [Children \(Scotland\) Act 1995](#)
  - [Children and Young People \(Scotland\) Act 2014](#)
  - [GIRFEC](#)
  - [Adult Support and Protection \(Scotland\) Act 2007](#)
  - General Data Protection Regulations
  - [Data Protection Act 2018](#)
  - [Human Rights Act 1998](#)
  - [National Missing Persons Framework for Scotland](#)
  - [Human Trafficking and Exploitation Strategy](#)
  - [Human Trafficking and Exploitation \(Scotland\) Act 2015](#)

## 7. INFORMATION SHARING

- 7.1 Information sharing is governed by the Data Protection Act 2018, the General Data Protection Regulations and Human Rights Act 1998.
- 7.2 Information sharing between partner agencies is crucial to successfully achieve the objectives of this protocol and to fulfil the statutory obligations to protect and support children and adults at risk of harm.
- 7.3 An updated Data Sharing Agreement is in progress that will include Child Protection Committee Information Sharing Protocol, the Adult Support

and Protection Information Sharing Protocol and the MAPPA SOG Information Sharing Protocol that sets out the scope and purpose of information sharing.

## **8. DUTY TO REPORT**

- 8.1 People who go missing do so from a variety of care placement establishments and private dwellings and this protocol should be supported by the care providers' internal protocols that reflect the responsibility to report a person missing where appropriate and in line with the missing person definition and risk assessment.
- 8.2 While a missing person report can be raised by any person there is a responsibility on agencies with a duty of care for an individual, at the time of them going missing, to ensure that this protocol and supporting internal protocols are followed. For example:
- A child resident of a Care Home would normally be reported missing by staff from that establishment but should they abscond from the school the report may be made by Education staff.
  - Social Work may report a missing person having been alerted by other support services of a lack of contact from that person.

## **9. ROLES AND RESPONSIBILITIES – PREVENTION**

- 9.1 Where an adult or child is involved with or under the care of a particular agency an assessment of their needs must be conducted which should highlight any risk associated with going missing. Where a likelihood of a person going missing is apparent this should be risk assessed taking into account of, but not limited to, the following information:
- Previous behaviour and missing person episodes that may identify factors or triggers.
  - The views of the person and/or their parents/carers on their needs and the action to be taken if missing.
  - Medical and/or physical issues and the impact of being missing without access to medication or treatment.
  - The level of supervision the person requires and any condition that limits the mental capacity of the individual.
  - External influences that may result in the person going missing.
  - Risk of exploitation – sexual, financial or other.
  - Any link to or risk of trafficking.
  - Specific actions to be taken if the person goes missing.
- 9.2 This risk assessment should focus on the risk associated with the person going missing along with the likelihood of that actually happening. For example a person who suffers from a particular medical condition and is in good physical condition might be considered at high risk of being a missing person. However, someone with the exact same condition but also has poor mobility would not present the same risk.

- 9.3 This information from the risk assessments will be incorporated into an individual's care plan with the appropriate levels of support and preventative measures required to reduce the likelihood of them going missing. (NB the term "care plan" is used as a generic term for the various plans used by agencies).
- 9.4 Where there is an identified risk of missing episodes the care plan should include an up to date physical description and where possible a recent photograph. This should be recorded and held, where possible, at the place of residence to be available to staff and Police when required.
- 9.5 Where significant risk factors are highlighted (i.e. sexual exploitation) this information should be shared, where possible, with other agencies to ensure the risk is highlighted and ensure an appropriate response is generated in the event of a missing episode.
- 9.6 Based on the risk factors agencies will ensure that the place of residence is suitable for that person and / or review any additional support or preventative measures that may be required to protect the individual. It is acknowledged that when a person is resident in their own or other private residence (e.g. foster placement) this may be limited to providing advice to the person and/or their family / carer.
- 9.7 Risk factors are categorised into two headings:
- **Stable factors** – those that are not likely to change between episodes for example previous behaviour and earlier life experiences.
  - **Dynamic factors** – those that can be different for each episode for example emotional state, current influences / associates, weather conditions, vulnerability, mental health, use of alcohol / drugs and offending

## 10. ROLES AND RESPONSIBILITIES - RESPONSE

- 10.1 Where a person goes missing each agency will have in place clear guidance on the actions to be taken by staff appropriate to the level of risk to the individual (Appendixes B to E).
- 10.2 Guidance should include a process for documenting these initial actions taken by staff (i.e. initial search of premises).
- 10.3 Once a missing person is reported to Police Scotland ownership of the investigation will lie with the Police and it will be conducted in line with their Standard Operating Procedures. However, there remains a responsibility for other agencies to support and assist the investigation, to maximise the opportunity to trace the missing person at the earliest juncture.
- 10.4 There is an obligation on the reporting agency to complete the risk assessment process and this should be completed at the earliest opportunity.

## 11. ROLES AND RESPONSIBILITIES – SUPPORT AND PROTECT

- 11.1 At the earliest opportunity a Single Point of Contact (SPOC) should be agreed with the family / closest person to the missing person and

timescales for updates will be agreed. Particularly in the case of a high risk missing person consideration should be given as to what agency or agencies are required to provide ongoing support. In the majority of cases Police will be the SPOC with support provided, where appropriate, from partner agencies.

- 11.2 When a missing person is traced an initial safe and well check should be completed by Police to ensure that there are no immediate concerns or criminality that needs to be progressed.
- 11.3 A Return Home Welfare Interview will be conducted with a view to giving the person a meaningful opportunity to be listened to and to express their views.
- 11.4 It is recognised within the NMPF, and by the partner agencies, that it is best practice not to conduct a Return Home Welfare Interview at the point of tracing the missing person and that a planned approach should be taken to complete this interview within 72 hours of their return. However, there may be circumstances when it is necessary to conduct the interview at the point of return (i.e. NHS patients from Accident and Emergency where staff have no relationship or prior knowledge of the missing person).
- 11.5 In the majority of cases it is likely that Police will not be the best placed agency to conduct the Return Home Welfare Interview as the missing person may be reluctant to engage with Police. However, Police will be required to conduct interviews in the absence of other options.
- 11.6 The Missing Person Operational Co-ordinator for Police will co-ordinate the tasking of Return Welfare Interviews and consideration will be given as to who should conduct the interview to ensure that there is a high likelihood of the person engaging in the process.
- 11.7 Decisions on who should undertake the interview will also need to take into account availability of the missing person to ensure they are conducted within the 72 hour recommended timescale.
- 11.8 The options, whilst not prescriptive, are as follows and in order of preference:
  - **Child allocated to Child and Family Social Work** - Interview carried out by
    1. Allocated Social Worker or
    2. Other involved agency (i.e. school nurse, CAMHS) or
    3. Named Person within education or
    4. Police Officer.
  - **Child not allocated to Child and Family Social Work** - Interview carried out by
    1. Named Person within Education (term time only) or
    2. Other involved agency (i.e. school nurse, CAMHS) or
    3. Police Officer where there are no escalating risks or concerns (school holidays only) or
    4. Social Work where escalating risks or concerns are noted by Police via concern report submissions.
  - **Adult allocated to Adult Social Work** - Interview carried out by

1. Allocated Key Worker or
  2. Allocated Social Worker or
  3. Police Officer.
- **Adult not allocated to Adult Social Work** - Interview carried out by
    1. Police (in consultation with Social Work where escalating risk identified)
  - **Adult missing from NHS** - Interview carried out by
    1. Social Work (if allocated) or
    2. Mental Health Officer (if allocated) or
    3. Police Officer.
- 11.9 When determining who to carry out the interview consideration will be given to whether any of the professionals involved may be a factor in them going missing. If this is considered a possibility they should not conduct the interview.
- 11.10 The interview will be captured on the Return Home Welfare Interview Pro-forma (Appendix H).
- 11.11 The completed Return Home Welfare Interview Pro-forma must be e mailed to [HighlandandIslandsMissingPersons@scotland.police.uk](mailto:HighlandandIslandsMissingPersons@scotland.police.uk) for the attention of the Missing Person Operational Co-ordinator, Craig Barron.
- 11.12 Information from the Return Home Welfare Interview will be used to update any care plan, share learning points with partner agencies and make appropriate adjustments to prevent future episodes.
- 11.13 Further details on specific actions for NHS, Looked after Children, Adults in Care and Education can be found in Appendixes B – E.
- 11.14 Where Child or Adult Protection concerns are highlighted, at any stage of the process, established Child or Adult Protection processes should be followed immediately.
- 11.15 Further details on Self Evaluation and Improvement processes can be found in Appendix I.

## APPENDIX A – NHS

### 1.0 Roles and Responsibilities

- 1.1 NHS Shetland define a missing patient as an inpatient or day patient who has wandered away, absconded from, or is absent from the clinical area and whose whereabouts are unknown.
- 1.2 Once a patient is missing, a Missing Patient Form and [NHS Risk Assessment Framework](#) must be printed off and used as a working document. This document will capture the description, circumstances and any other useful information concerning the missing patient.
- 1.3 Staff must determine a level of risk associated with the patient using the Risk Assessment Framework within the document to inform the decision making process. This document will be made available to Police should it be required.
- 1.4 Missing patients will be reported to police as per the following guidance

**High Risk** - Patients whose whereabouts are unknown and:

- Who are at immediate and significant risk of suicide or serious self-harm; or
- Have a serious physical condition; or
- Are extremely vulnerable; or
- Pose a threat to public safety.
- REPORT TO POLICE IMMEDIATELY - These patients should be returned to the hospital immediately.

**Medium Risk** - Patients, whose whereabouts are unknown, and:

- Who are at no immediate risk; or
- Who pose no threat to the public; but
- Whose continuing absence would give cause for concern.
- REPORT TO POLICE AFTER 12 HOURS IF THE PATIENT REMAINS MISSING - These patients should be returned to the hospital at the earliest opportunity.

**Low Risk** - Patients, whose whereabouts are unknown, and:

- Whose pattern of behaviour is well known; or
- Who pose no risk to either themselves or others.
- REPORT TO POLICE AFTER 24 HOURS IF THE PATIENT REMAINS MISSING

- 1.5 Nurse in Charge is responsible for identifying that a patient is missing, completing the risk assessment as per the Risk Assessment Framework and reporting the missing person to police. They also have responsibility to notify line management within NHS Shetland.
- 1.6 Full details of the action to be taken, dependant on the risk and location of the patient is missing from, are contained within the main

document and not reproduced here. However, regardless of grading or location the following actions will be carried out:

- Identifying the patient is missing;
  - Confirm level of risk – Is the patient missing and at High / Medium / Low Risk;
  - Co-ordinating a local search of the immediate area;
  - Attempt to contact patient at their home number and mobile telephone;
  - Ensuring an accurate description of the patients details including description / identifying features / clothing, last time/date and place patient seen to ensure all staff searching for the patient have the same information to assist with reporting, search and escalation;
  - Follow the relevant algorithm based on agreed risk;
  - Contacting family (NOK) to advise of situation, and any other key contacts (nursing home staff, warden if in sheltered housing, neighbour if no family);
  - Complete missing patient form;
  - Maintain an up-to-date record of the incident in the missing person healthcare record, including actions & updates at regular intervals (min per shift handover);
  - Complete DATIX;
- 1.7 When a patient is traced a Return Home Welfare Interview will be conducted and an investigation into the circumstances that led to the missing patient to identify any learning or improvements in care.
- 1.8 There are a number of professionals trained to conduct these discussions; managers should be aware of staff within their setting that have completed the training and make the Police aware of this on the return of an individual linked to their provision. Ideally, when possible, it should be a staff member the individual knows who conducts the discussion. A list of trained staff will be available from the Shetland Public Protection Team 01595 744435. Discussions should be completed within 72 hours of their return, it is not expected that trained professionals be called to attend out with their normal working hours.
- 1.9 Upon return a Return Home Welfare Interview Pro-forma will be completed and e-mailed to [HighlandandIslandsMissingPersons@scotland.police.uk](mailto:HighlandandIslandsMissingPersons@scotland.police.uk) for the attention of the Missing Person Operational Co-ordinator, Craig Barron.

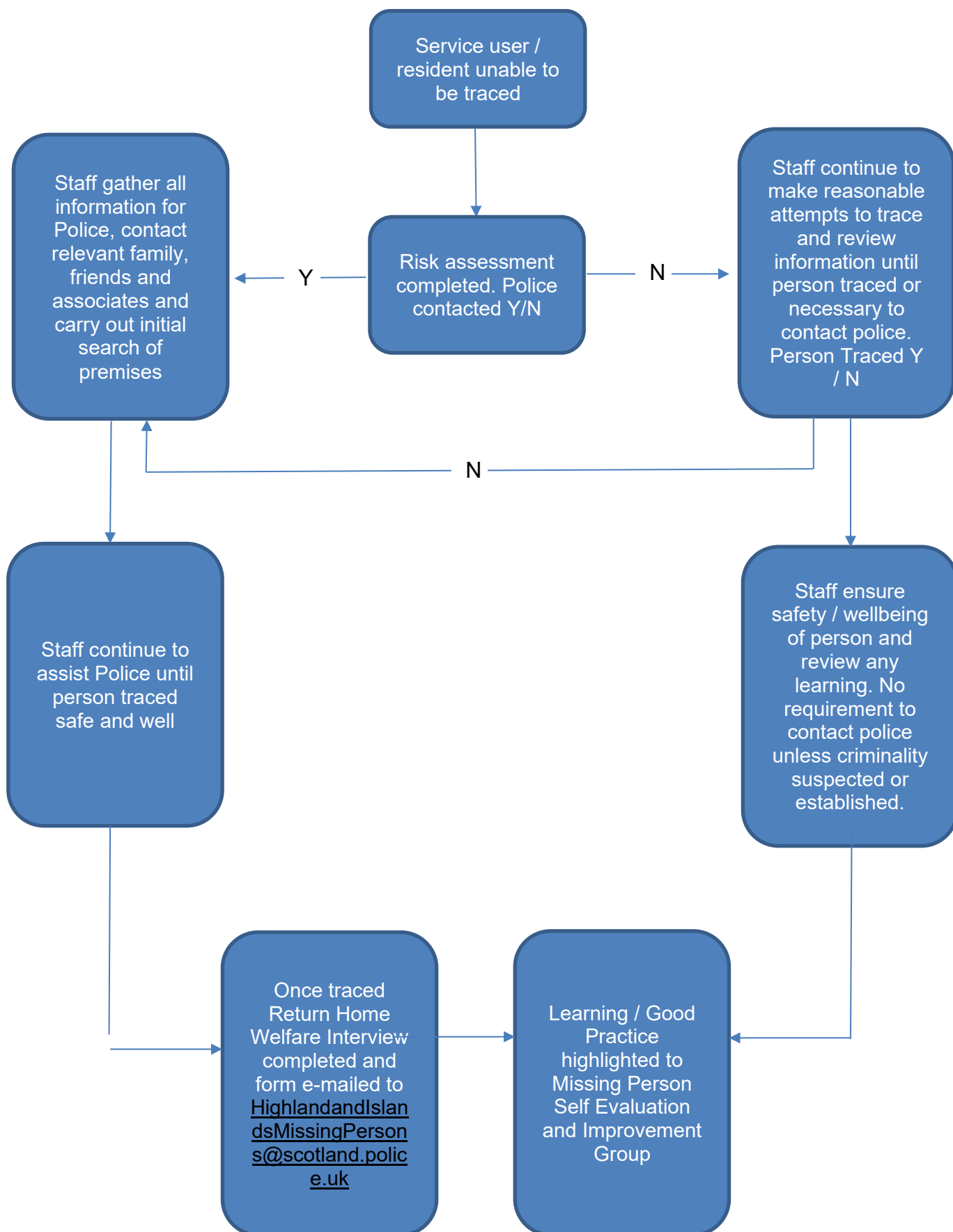
## **APPENDIX B – Adults Who Go Missing From Private or Residential Care Setting**

### **1.0 Roles and Responsibilities**

- 1.1 The roles and responsibilities referred to in this section relate to adults with identified vulnerabilities who receive care either within their private residence or residential care setting. This includes adults in day care.
- 1.2 Where the assessment of the needs of an individual identify a risk of missing episodes the care agency will have a care plan which will include an information related to the likelihood and associated risk of them going missing.
- 1.3 Where a risk is identified a clear plan will be in place with the actions to be taken in the event of the person going missing. This will be proportionate to the level of risk with consideration given to calling a Professionals Meeting to agree the response plan where it is identified there is a high risk associated with the person going missing.
- 1.4 The initial collation of all information on the individual is one of the key elements to the protocol and time should be taken to extract as much information as possible that may help in the early and safe recovery of the individual. All relevant fixed information should be recorded within the Care Plan and updated as required by the Care Staff. The Care Plan should be stored within the client's home / care home and be accessible at all times.
- 1.5 The Care Plan should include the following information:
  - Physical description and photograph
  - Medical / health conditions
  - Medication and impact of being denied access to same
  - Information on next of kin, places of interest or any other information that may assist during missing person episodes.
- 1.6 Care Plans should be reviewed after any missing person incident or in line with the agency review timescales in the absence of an incident to ensure that all information is up to date and relevant. Reviews periods should take cognisance of the level of risk of a client going missing especially in terms of keeping physical descriptions up to date for high risk clients.
- 1.7 As part of the proactive measures, a list of people with links to the individual should be collated for ease of reference and included in the placement plan. Local community focal points should also be considered such as nearby pubs, libraries, supermarkets so that early alerts can be undertaken as part of the initial actions of the Care Staff and backed up by the Police with actual visits later.
- 1.8 Where appropriate, proactive measures can also include highlighting the individual to the occupants of identified past addresses without revealing personal information. This is most likely to be for cases involving people suffering from dementia where evidence has shown a likelihood of attending at previous addresses / point of interest.

- 1.9 Where an individual is identified as being a potential high risk missing person, the use of a GPS location device should be considered and has been previously used successfully in conjunction with the above preventative measures. The device can be worn by the resident and will provide a location for the device within a 5/10 metre radius. On certain models it can send an alert to the Care Staff if the person goes out with a specific distance of the home.
- 1.10 In cases where the use of a GPS device or other relevant technology is being considered this should be fully discussed with the individual and/or their family. Partner agencies will also require to consider the guidance provided by the Mental Welfare Commission for Scotland – Decisions about Technology.
- 1.11 Whenever a missing person is reported then a full risk assessment will be conducted by the reporting Care Agency based on the information available at the time of going missing. Staff involved with providing care should be familiar with the 23 questions Police Officers will ask in relation to risk and the risk assessment matrix ([Appendix F](#) and [Appendix H](#)).
- 1.12 When an individual goes missing Care Staff should provide the care plan and the risk assessment to the initial attending Police Officer.
- 1.13 When a person is reported missing the following actions will be completed by care home staff or care worker involved where they are missing from a private residence:
  - All relevant staff working in the vicinity should be informed of the missing individual and a thorough search conducted of the home, grounds and out buildings. It should be noted that Police will also conduct extensive searches of the building and area but this should not preclude the initial searching by staff.
  - Other residents should be spoken to, to establish any current information on the missing person.
  - CCTV, where available, should be checked to establish the exact time the missing person left the building (if they have left), confirm what the missing person was wearing and any direction of travel.
  - Care Staff should contact those highlighted in the Care Plan to alert them that the person has gone missing.
  - For all high risk missing persons, Police should be contacted through 999.
  - Family and friends should be called by the Care Staff.
  - Staff should commence telephoning the list of contacts for local focal points in the area giving a detailed description of the missing person.
  - The duty on call care manager should be informed and be available to speak to the police if required.

- 1.14 Upon return a Return Home Welfare Interview will be conducted and the Missing Person Return Home Welfare Interview Pro-forma will be completed to identify any learning or improvements in care.
- 1.15 There are a number of professionals trained to conduct these discussions; managers should be aware of staff within their setting that have completed the training and make the Police aware of this on the return of an individual linked to their provision. Ideally, when possible, it should be a staff member the individual knows who conducts the discussion. A list of trained staff will be available from the Shetland Public Protection Team 01595 744435. Discussions should be completed within 72 hours of their return, it is not expected that trained professionals be called to attend out with their normal working hours.
- 1.16 Where the missing person is not capable of engaging in a return welfare interview there should still be a review by agencies involved in the care of the individual to identify any learning for the ongoing care of the individual and put in place measures to prevent future episodes.
- 1.17 The completed Return Welfare Interview Pro-forma will be e-mailed to [HighlandandIslandsMissingPersons@scotland.police.uk](mailto:HighlandandIslandsMissingPersons@scotland.police.uk) for the attention of the Missing Person Operational Co-ordinator, Craig Barron.



## APPENDIX C – LOOKED AFTER AND ACCOMMODATED CHILDREN

### 1.0 Roles and Responsibilities

- 1.1 The roles and responsibilities in this section relate to children who are looked after either within a residential care or foster care setting within Shetland. Accommodated children placed out with Shetland are not within the scope of this protocol.
- 1.2 Looked After Children (LAC) in residential care and foster care will have a care plan. This plan will include an assessment of the likelihood and the associated risks of them going missing and should include the following information where available:
  - Up to date physical description and photograph
  - Details of family / next of kin
  - Details of associates
  - Mobile Phone number
  - Social Media use including any known profiles
  - Places of interest
  - Medical / physical conditions
  - Medication and impact of being denied access to same
  - Details of drug / alcohol use
  - Any other relevant information
- 1.3 The care plan should be reviewed by the relevant Care Provider after every missing person episode or in line with the agency review timescales in the absence of an incident to ensure that all information is up to date and relevant.
- 1.4 Looked after Children who are subject of a home based Supervision Order are not subject to every aspect of this protocol. However, the principles of this protocol should be applied in developing their care plan and discussed with their parent / guardian.
- 1.5 Where there is a high risk associated with a child going missing a Professionals Meeting or Risk Management Meeting dependant on circumstances will be held prior to the placement, or as soon as possible thereafter, to ensure that all possible preventative measures are in place to limit missing episodes and to consider the impact the child may have on other children who are already residing at that placement.
- 1.6 Staff must all be familiar with the national definition of a missing person, the risk assessment questions and the [Risk Assessment Matrix](#). This will provide a consistent approach to decision making on whether or not a child is missing.
- 1.7 Where the whereabouts of a child are unknown the carer(s) for the child will utilise their knowledge of the child, professional judgement and the risk assessment process to make a decision on whether to report the child as missing.
- 1.8 In circumstances where a decision is made, based on the definition and risk assessment process, that the child is not missing then there is

**no requirement** to contact police. The carer or care establishment will retain responsibility for carrying actions to trace or contact the child. Whilst not exhaustive the following information are examples that would provide rationale for not reporting a child missing:

- Behaviour is not out of character and only a short time period has elapsed (i.e. late for curfew).
- The child has been spoken to and whilst they would not disclose their location they otherwise engage well and there is nothing to suggest they were at risk or under duress.
- Credible information has been obtained from family / friends that the child is safe and well.

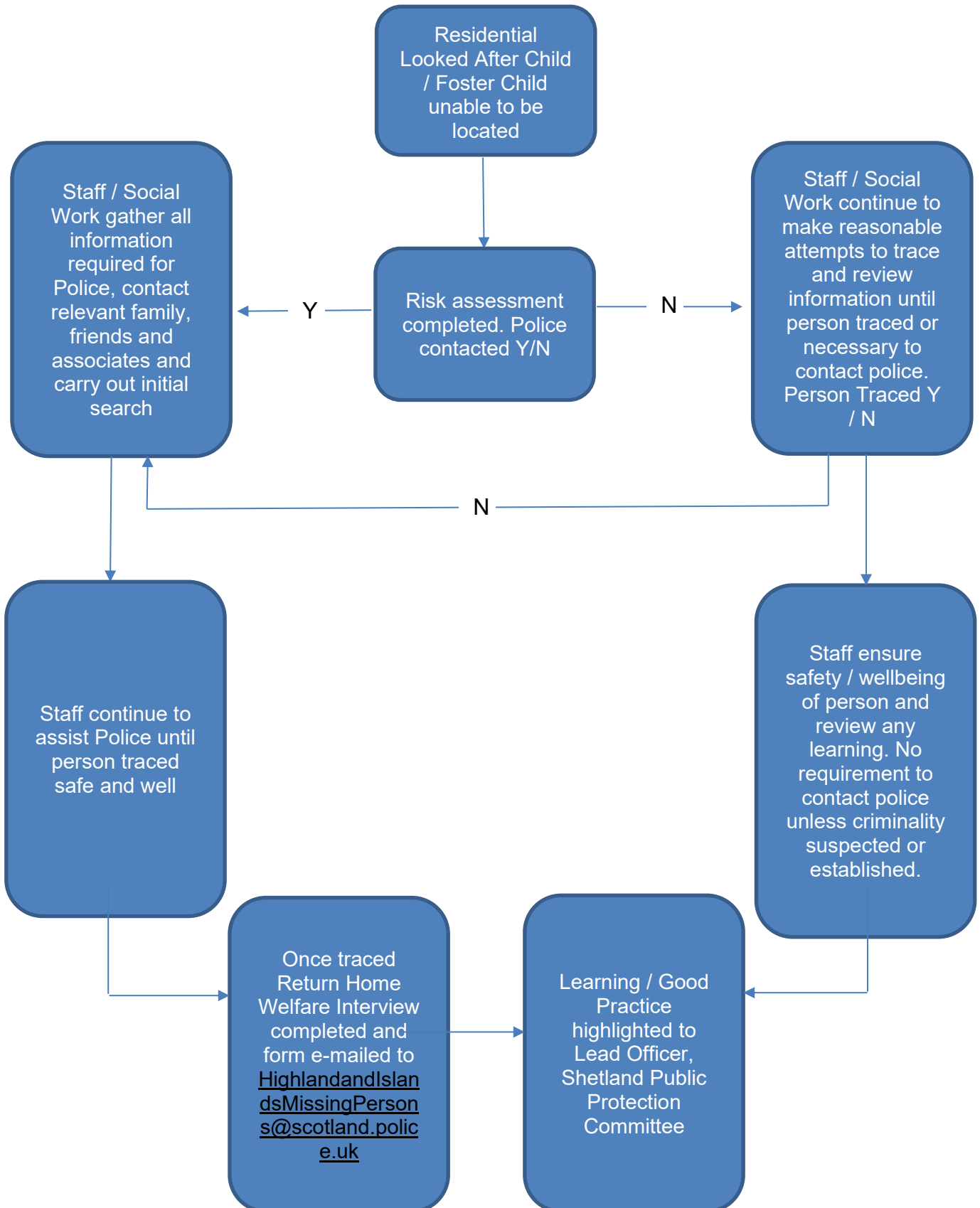
1.9 In circumstances where a decision has been made that the child does not require to be reported missing this should be subject of ongoing review and reassessed by the allocated Social Worker as and when information is obtained. Whilst timescales for review will be dependent on the information available and variable factors (e.g. weather conditions) a review should be conducted at least every two hours.

1.10 When a LAC absconds from or fails to attend school the risk assessment process will still be followed in consultation with the education establishment and a decision made on whether to report the child as missing or treat the incident as truancy. A child should not be reported missing solely on the basis of them being a LAC without other information that would give rise to a level of risk being associated with the absence.

1.11 When a child is reported missing the following actions will be completed by residential staff or foster carer involved where they are missing from a private residence:

- All staff should be informed of the missing individual and staff should conduct a thorough search of the home, grounds and out buildings. It should be noted that Police will also conduct extensive searches of the building and area but this should not preclude the initial searching by staff.
- If appropriate, other residents should be spoken by staff, to establish any current information on the missing person.
- CCTV, where available, should be checked by staff to establish the exact time the missing person left the building (if they have left), confirm what the missing person was wearing and any direction of travel.
- Care Staff should contact those highlighted in the Care Plan to alert them that the person has gone missing.
- For all high risk missing persons, Police should be contacted through 999.
- Family and friends should be called by the Care Staff / Carer.

- If known, Staff should commence telephoning the list of contacts for local focal points in the area giving a detailed description of the missing person.
  - Complete the Missing Persons Pro-forma and send it to the relevant people listed in the Guide for Residential House Staff and Commissioned Agencies.
- 1.12 Upon return a Return Welfare Home Interview will be conducted to gather information and identify any learning / additional risks identified from the missing episode. This information will be used to update the Care Plan.
- 1.13 There are a number of professionals trained to conduct these discussions; managers should be aware of staff within their setting that have completed the training and make the Police aware of this on the return of an individual linked to their provision. Ideally, when possible, it should be a staff member the individual knows who conducts the discussion. A list of trained staff will be available from the Shetland Public Protection Team 01595 744435. Discussions should be completed within 72 hours of their return, it is not expected that trained professionals be called to attend out with their normal working hours.
- 1.14 The Return Home Welfare Interview Pro-forma will be completed and e-mailed to [HighlandandIslandsMissingPersons@scotland.police.uk](mailto:HighlandandIslandsMissingPersons@scotland.police.uk) for the attention of the Missing Person Operational Co-ordinator

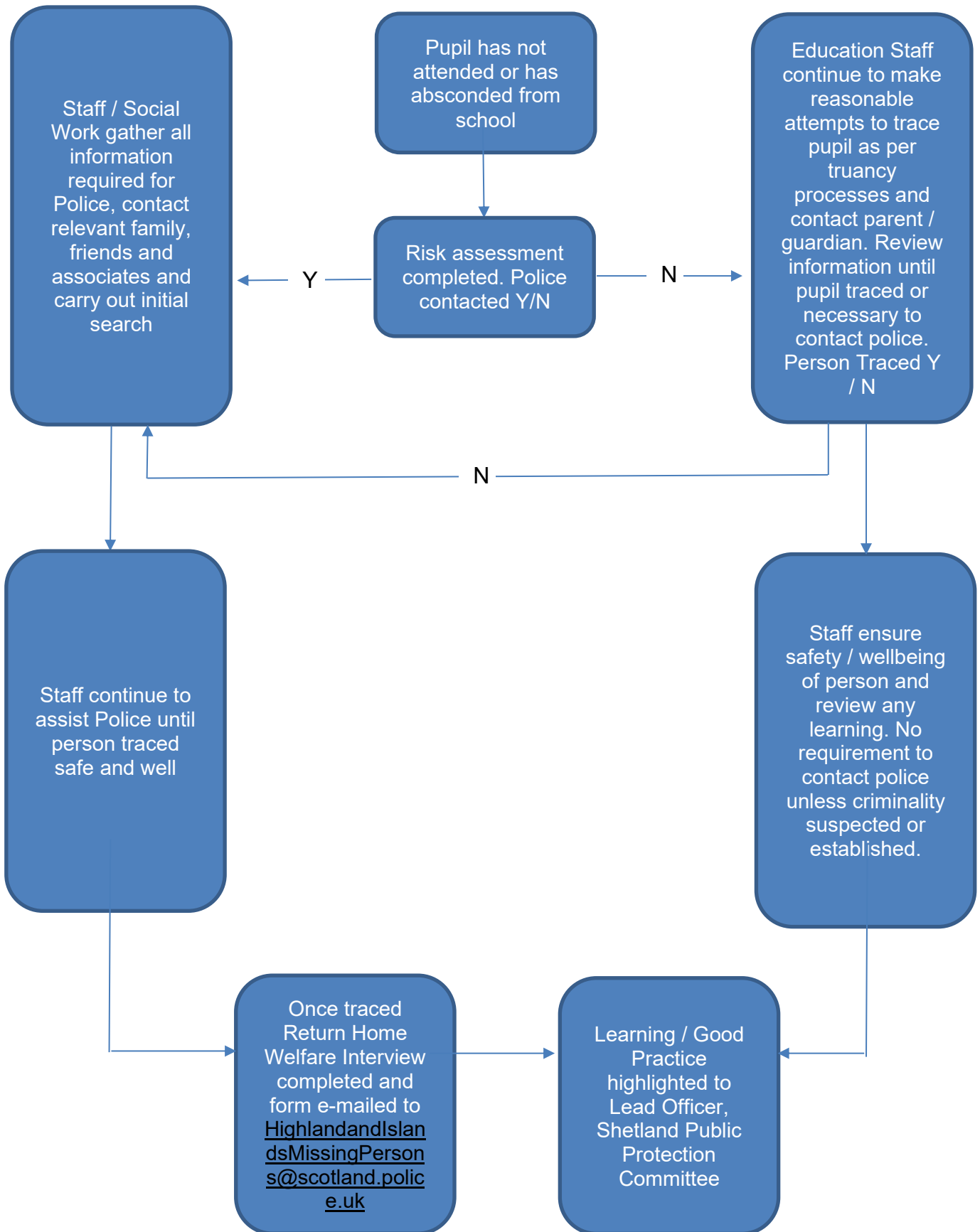


## **APPENDIX D – Children Missing from Education Establishment**

### **1.0 Roles and Responsibilities**

- 1.1 The roles and responsibilities in this section relate to children who either unexpectedly fail to attend school or abscond from school during the school day. Procedures in relation to ongoing absence are covered in the Guideline for Children Missing from Education 2018. New updated policy in progress.
- 1.2 Where it is identified that a child has not attended school or has left school unexpectedly during the day the education establishment will have in place clear processes and guidance in order for staff to make a decision as to whether this child is a truant or should be reported to police as a missing person (see Flowchart).
- 1.3 Staff must all be familiar with the national definition of a missing person, the risk assessment questions and the [Risk Assessment Matrix](#). This will provide a consistent approach to decision making on whether or not a child is missing.
- 1.4 The risk assessment will be conducted on every occasion a child is considered to be absent without explanation to ensure that all relevant factors are taken into account during the risk assessment process. This will include researching concerns that have been noted and shared by other agencies.
- 1.5 When a LAC absconds from or fails to attend school the risk assessment process will still be followed in consultation with the Care Provider / Social Work and a decision made on whether to report the child as missing or treat the incident as truancy. A child should not be reported missing solely on the basis of them being a LAC without other information that would give rise to a level of risk being associated with the absence.
- 1.6 If, after assessment, the child is classed as a truant the school will retain responsibility for making attempts to trace the child and to inform and update the parent / guardian.
- 1.7 This will be reviewed on an ongoing basis taking into account any information obtained that indicated an increased risk and escalation to a missing person.
- 1.8 Where it has been identified that there is an ongoing high risk associated with a child absconding from school a profile will be created by the school / named person in consultation with the parent / guardian with the following information included where available:
  - Physical description and photograph.
  - Medical and mental health conditions.
  - Medication and impact of being denied access to same.
  - Mobile phone number and any known Social Media profiles.
  - Family contacts and addresses.
  - Current associates.
  - Places of interest.

- 1.9 Where a high risk is identified the school / named person will call a Professionals Meeting or Risk Management Meeting involving Police, Education, Social Work and parents / guardian where appropriate to ensure that all relevant information is documented and available in the event of a missing person episode.
- 1.10 When a child is reported as a missing person to the Police there will be clear guidance on the initial actions to be taken by Education staff. Whilst not prescriptive this will include some / all of the following:
- Who makes the phone call to Police ensuring that 999 is used for all high risk cases.
  - Update the parent or guardian that it has been or will be reported to Police
  - Guidance on ensuring all staff are made aware of the missing person
  - Associates to be spoken to regarding any information they have regarding the missing person and / or their whereabouts.
  - Update the parent or guardian that it has been reported to Police.
  - Systematic search of the building and outbuildings to be conducted as far as possible by staff
  - Any relevant CCTV to be reviewed by staff which will give an accurate time and place the missing person was last seen.
  - Contact to be made with Social Work where the missing person is allocated.
  - Staff should commence telephoning family or friends connected to the missing person.
- 1.11 Once traced a Return Home Welfare Interview will be conducted and the Return Home Welfare Interview Pro-forma will be completed to identify any learning or preventative measures that can be considered to reduce the likelihood of future episodes. Whilst it may be that another agency conducts the return interview any relevant information obtained from it will be shared with Education.
- 1.12 There are a number of professionals trained to conduct these discussions; managers should be aware of staff within their setting that have completed the training and make the Police aware of this on the return of an individual linked to their provision. Ideally, when possible, it should be a staff member the individual knows who conducts the discussion. A list of trained staff will be available from the Shetland Public Protection Team 01595 744435. Discussions should be completed within 72 hours of their return, it is not expected that trained professionals be called to attend out with their normal working hours.
- 1.13 The completed Return Home Welfare Interview Pro-forma will be e mailed to [HighlandandIslandsMissingPersons@scotland.police.uk](mailto:HighlandandIslandsMissingPersons@scotland.police.uk) for the attention of the Missing Person Operational Co-ordinator, Craig Barron.



## **APPENDIX E - RISK ASSESSMENT**

The following risk assessment is utilised by Police Scotland in all missing person investigations. This is the information that will be requested from the person reporting an individual missing.

### **Vulnerability**

1. Is there any identified risk of suicide?
2. Is criminality suspected to be a factor in the disappearance?
3. Is the person vulnerable due to age, infirmity or other similar factor?
4. What are the effects of failure to take medication that is not available to them?
5. Does the missing person have medical or mental health conditions, physical illnesses or disabilities?
6. Can the person interact safely with others when finding themselves in unfamiliar circumstances?
7. Is there a dependency on drugs, alcohol, medication or other substances?
8. Are they on the Child Protection Register?
9. Do the current/previous weather conditions present additional risk? Consider all circumstances including age & clothing.

### **Influences**

10. Are there family/relationship problems or recent history of family conflict and/or abuse?
11. Are they the victim or perpetrator of domestic violence?
12. Is there an ongoing personal issue linked to race, sexuality, homophobia, the local community or any cultural / religious issues?
13. Were they involved in a violent and/or hate crime or incident prior to disappearance?
14. Are there any school, college, university, employment or financial problems?
15. Is forced marriage or honour based violence an issue?
16. Are they the victim of sexual exploitation, human trafficking or prostitution? If so, is going missing likely to place them at risk of considerable harm.

### **Past Behaviour**

Behaviour that is out of character is often a strong indicator of risk

17. Are the circumstances of going missing different from normal behaviour patterns?
18. Is there a reason for the person to go missing?
19. Are there any indications that preparations have been made for absence?

20. What was the person intending to do when last seen? Did they fail to complete their intentions?
21. Has the person disappeared previously and were they exposed to harm on such occasions?
22. Is the missing person a risk to others? And in what way?
23. Are there other unlisted factors that are relevant in the assessment of risk?

## **APPENDIX F - POLICE INITIAL MISSING PERSON INFORMATION**

The following information is utilised by Police Scotland in all missing person investigations. This is the information that will be requested from the person reporting an individual missing.

### **Personal Details**

1. Full name, including middle names, nicknames, previous names and aliases
2. Age, date & place of birth
3. Occupation / school attended & addresses
4. Home address
5. Location missing from (if different)
6. Phone number (contracted or pay as you go & service provider)
7. Access to other phone or SIM cards
8. E-mail addresses (passwords)
9. Social networking sites used (obtain account names and passwords)

### **Personal Description**

1. Photograph
2. Gender
3. Height, build, weight & complexion
4. Ethnicity and skin colour
5. Eye colour
6. Glasses / contact lenses worn
7. Habits & mannerisms
8. Accent
9. General health / mental health (diagnosed or otherwise)
10. Hair cut & facial hair (colour & style)
11. Clothing
  - a. Head wear
  - b. Upper body clothing
  - c. Lower body clothing
  - d. Footwear
  - e. Underwear
  - f. Outer clothing
  - g. Other clothing, gloves / scarves / glasses etc.
12. Visible marks, scars, tattoos, piercing or distinguishing features.
13. Jewellery (earrings, watches, bracelets, rings, necklace, other)
14. Languages spoken / read
15. Ability to understand / read English
16. Shoe size
17. Dentures
18. Medical implants

### **Other Information**

1. Nationality
2. Religion or beliefs
3. Marital / civil partnership status
4. Sexuality
5. Previous addresses
6. Previous schools / occupations
7. Financial details (income source, bank, sort code, account no, cards)
8. Passport details (number & location)
9. Details of Doctor
10. Details of Dentist
11. Right / left handed
12. Are there any objections to a media release?
13. Does the family/informant need personal support?
14. Possessions e.g. cash, keys, computer, medication, bank cards, store cards, travel cards, passport, make / model of phone. Is it internet enabled or have phone locator apps installed
15. Preferred modes of transport, access to vehicles, ability & licence to drive, types of public transport used regularly

### **Information relating to previous movements**

1. Date, time and place last seen.
2. Date, time and method of last contact, i.e. call / text
3. Details of person who last saw / spoke with missing person
4. Known demeanour of missing person at last sighting
5. Were they accompanied?
6. Any property missing from home?
7. Any preparations made to leave?

### **Information relating to contacts and behaviour**

1. Next of kin (including relationship to missing person)
2. Friends, relatives, partners or associates
3. Intended destination when last seen
4. Daily routines, routes used
5. Work location / address
6. Locations frequented, favourite places, beauty spots, walking routes etc.

### **Information relating to personality, lifestyle and influences**

1. Social interests
2. Personality (outgoing, insular, deep)
3. Recent demeanour
4. Details of any addictions
5. Involvement with crime, cults or gangs?
6. Recent life troubles? e.g. family, financial or work
7. Religious and cultural influences?

## APPENDIX G – RISK ASSESSMENT MATRIX

### 1. NHS RISK ASSESSMENT MATRIX

<b>PATIENTS NAME</b>		<b>D.O.B.</b>	
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<b>Section 1</b>			
<b>If the answer to any of the question in Section 1 is 'Yes', the initial risk assessment is HIGH and immediate response is required</b>			
<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Is there any information that the person is likely to harm themselves or attempt suicide?			
Is there any information to suggest the missing patient intends to harm others?			
Is the person suspected to be subject of crime? e.g., abduction, threats, blackmail			
Is there reason to believe that the person has been removed or encouraged to leave by another because of domestic circumstances or cultural reasons?			
Is this behaviour out of character AND does it cause belief that the patient may be at increased risk of harm?			
Is the person under 16 or, if between 16 and 18, vulnerable due to other factors?			
Is it likely the missing person would be a significant risk to themselves due to their vulnerability in an unknown environment?			
Does the missing person need essential medication or treatment not readily available to them?			
Are there inclement weather conditions that would seriously increase risk to health, especially where the missing person is a child or elderly person?			
<b>Notes:</b>			

**Section 2**

**If the answer to two or more of the following criteria are YES the Patient risk must be classed as Medium, otherwise the Patient should be classified as Low Risk (Subject to review)**

<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Has the person previously gone missing AND suffered or was exposed to harm because of this?			
Are there contributory factors relating to the persons social circumstances?			Family / Relationships / Housing / Employment / Finances School / College / University
Is the person suffering from drug or alcohol dependency?			
Is the person assumed to be alone?			
Is the person unfamiliar with the area?			
Is the patient the subject of any warning markers?			
Is the Patient subject to any life critical medication?			
<b>Notes:</b>			

**REVIEW PROCESS**

The measures of risk are subject to constant change and the risk assessment process must be reviewed regularly and at a minimum prior to shift handover to reflect on any new and emerging threats to the patient's safety. Risk may be either heightened or lowered depending upon the circumstances available, however it may be the case that nothing has altered in the material circumstance, in which case the Risk Level will remain static.

The process of regular reviews must be continued until directed otherwise by the Executive on call or equivalent.

## 2. ADULTS MISSING FROM PRIVATE OR RESIDENTIAL CARE SETTING RISK ASSESSMENT MATRIX

<b>SERVICE USER NAME</b>		<b>D.O.B.</b>	
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<b>Section 1</b>			
<b>If the answer to any of the questions in Section 1 is 'Yes', the initial risk assessment is HIGH and an immediate response is required</b>			
<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Is there any information that the person is likely to harm themselves or attempt suicide?			
Is there any information to suggest the missing person intends to harm others?			
Is the person suspected to be subject of crime? e.g., abduction, threats, blackmail			
Are there inclement weather conditions that would seriously increase risk to health, especially where the missing person is elderly?			
Is this behaviour out of character AND does it cause belief that the person may be at increased risk of harm?			
Does the person suffer from any physical and/or mental illnesses that impact on their capacity / decision making (e.g. dementia)?			
Is it likely the missing person would be a significant risk to themselves due to their vulnerability in an unknown environment?			
Does the missing person need medication immediately or treatment not readily available to them?			
Is their reason to believe that the person has been removed or encouraged to leave by another because of domestic circumstances or cultural reasons?			
<b>Notes:</b>			

## **Section 2**

If the answer to two or more of the following criteria are YES the person is likely to be at Low or Medium risk and should be reported as missing. If the answer to the following criteria is NO to all or all but one then it may be that the person does not require to be reported to police until further enquiry has been conducted. (Subject to review)

<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Has the person previously gone missing AND suffered or was exposed to harm because of this?			
Are there contributory factors relating to the persons social circumstances?			Family / Relationships / Housing / Employment / Finances School / College / University
Is the person suffering from drug or alcohol dependency?			
Is the person assumed to be alone?			
Is the person unfamiliar with the area?			
Is the patient the subject of any warning markers?			
Does the person require medication that is not immediately required but will impact if denied access to same over a longer period? (please specify timescale if Yes)			
Incident Reported to Police			Rationale:
<b>Notes:</b>			

## **REVIEW PROCESS**

The measures of risk are subject to constant change and the risk assessment process must be reviewed regularly by a designated staff member and in any case on receipt of new information. The timescales for review should be based on the circumstances and available information. Timescales for review may be dictated by, for example, prevailing weather conditions, time of day or increasing risk due to medication not being administered. Risk may be either heightened or lowered depending upon the circumstances available, however it may be the case that nothing has altered in the material circumstance, in which case the Risk Level will remain static. This process will continue until the welfare of the person has been confirmed

### 3. LOOKED AFTER CHILDREN RISK ASSESSMENT MATRIX

<b>CHILD NAME</b>		<b>D.O.B.</b>	
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<b>Section 1</b>			
<b>If the answer to any of the questions in Section 1 is 'Yes', the initial risk assessment is HIGH and an immediate response is required</b>			
<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Is there any information that the child is likely to harm themselves or attempt suicide?			
Is there any information to suggest the missing child intends to harm others?			
Is the child suspected to be subject of crime? e.g., abduction, threats, blackmail			
Is their reason to believe that the child has been removed or encouraged to leave by another because of domestic circumstances or cultural reasons?			
Is this behaviour out of character AND does it cause belief that the child may be at increased risk of harm?			
Is the child diagnosed with any illness or condition that significantly impacts on their capacity or decision making?			
Is the child unfamiliar with the local environment to the extent that this would place them at significant risk?			
Does the missing child need essential medication in the short term?			
Are there inclement weather conditions that would seriously increase risk to health, especially where the missing child is very young / not appropriately dressed etc?			
<b>Notes:</b>			

## **Section 2**

If the answer to two or more of the following criteria are YES the child is likely to be at Low or Medium risk and should be reported as missing. If the answer to the following criteria is NO to all or all but one then it may be that the child does not require to be reported to police until further enquiry has been conducted. (Subject to review)

<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Does the child have a recorded history of being exposed to harm whilst reported missing?			
Do the circumstances suggest that the child is at risk of sexual exploitation?			
Has the child been exposed to harm due to over consumption of drugs / alcohol			
Has the child been out of contact for a significant period?			
If contact has been made with the child did they sound significantly impaired or distressed?			
Has the child failed to make contact with friends / associates that would give cause for concern?			
Does the person require medication that is not immediately required but will impact if denied access to same over a longer period? (please specify timescale if Yes)			
Incident Reported to Police			Rationale:
<b>Notes:</b>			

## **REVIEW PROCESS**

The measures of risk are subject to constant change and the risk assessment process must be reviewed regularly by a designated member of staff and in any case on receipt of new information. The timescales for review should be based on the circumstances and available information. Timescales for review may be dictated by, for example, prevailing weather conditions, time of day or increasing risk due to medication not being administered. Risk may be either heightened or lowered depending upon the circumstances available, however it may be the case that nothing has altered in the material circumstance, in which case the Risk Level will remain static. This process will continue until the welfare of the person has been confirmed.

#### 4. CHILDREN MISSING FROM EDUCATION ESTABLISHMENT RISK ASSESSMENT MATRIX

<b>CHILD NAME</b>		<b>D.O.B.</b>	
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<b>Section 1</b>			
<b>If the answer to any of the questions in Section 1 is 'Yes', the initial risk assessment is HIGH and an immediate response is required</b>			
<b>Factor</b>	<b>No</b>	<b>Yes</b>	<b>Details</b>
Is there any information that the child is likely to harm themselves or attempt suicide?			
Is there any information to suggest the missing child intends to harm others?			
Is the child suspected to be subject of crime? e.g., abduction, threats, blackmail			
Is their reason to believe that the child has been removed or encouraged to leave by another because of domestic circumstances or cultural reasons?			
Is this behaviour out of character AND does it cause belief that the child may be at increased risk of harm?			
Is the child diagnosed with any illness or condition that significantly impacts on their capacity or decision making?			
Is the child unfamiliar with the local environment to the extent that this would place them at significant risk?			
Does the missing child need essential medication in the short term?			
Are there inclement weather conditions that would seriously increase risk to health, especially where the missing child is very young / not appropriately dressed etc?			
<b>Notes:</b>			

**Section 2**

If the answer to two or more of the following criteria are YES the child is likely to be at Low or Medium risk and should be reported as missing. If the answer to the following criteria is NO to all or all but one then it may be that the child does not require to be reported to police until further enquiry has been conducted. (Subject to review)

Factor	No	Yes	Details
Is this the first occasion the child has been absent without reasonable explanation?			
Do the circumstances suggest that the child is at increased risk of harm?			
Is there information that the missing child is accessing drugs or alcohol at this time (please specify)?			
Have family / Social Work provided any information to suggest an increased risk to the child?			
Does the person require medication that is not immediately required but will impact if denied access to same over a longer period? (please specify timescale if Yes)			
Incident Reported to Police			Rationale:

**Notes:****REVIEW PROCESS**

The measures of risk are subject to constant change and the risk assessment process must be reviewed regularly by a designated member of staff and in any case on receipt of new information. The timescales for review should be based on the circumstances and available information. Timescales for review may be dictated by, for example, prevailing weather conditions, time of day or increasing risk due to medication not being administered. Risk may be either heightened or lowered depending upon the circumstances available, however it may be the case that nothing has altered in the material circumstance, in which case the Risk Level will remain static. This process will continue until the welfare of the person has been confirmed.

**APPENDIX H – RETURN HOME WELFARE INTERVIEW PRO-FORMA**

<b>Name</b>		<b>Date of Birth</b>	
<b>Address</b>		<b>Gender</b>	Male <input type="checkbox"/> Female <input type="checkbox"/>

<b>Date reported missing</b>		<b>Time</b>	hrs
<b>Date traced</b>		<b>Time</b>	hrs
<b>Length of time missing</b>		<b>MP Report No (Police to Input)</b>	MP

**1. What happened to make you go missing? (What were they doing prior to going missing, planned, bored, something happened, to get away from someone else...)**

**2. What happened whilst you were missing? (Where did you go, who were you with, any trouble, anybody else saw you/met you, how did you get back, how did you feel?)**

**3. What can be done to help to stop you going missing and help keep you safe in the future? (include any aspirations / interests)**

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**4. Any concerns / issues raised by the person who went missing?**

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**Is there any further information, including intelligence that is not subject to this report?**

Yes  No

**If Yes, how/where is this reported or if passed verbally details of who to and when.**

--

**Child / Adult Protection Referral**

Yes  No

**Notification of Child Concern Form by Police**

Yes  No

<b>Miscellaneous</b>	
How did they travel?	
How did they access money?	
Where did they stay overnight? (if yes were parents / adults aware)	
Any alcohol / drug use?	
How did they pay for any alcohol / drugs?	
How did they pay for any alcohol / drugs?	
Why did they decide to return?	
If returned by Police how did they feel and what were Police like?	
What were parents / carers like on return?	
Any associates identified?	
Any indications of exploitation?	



## APPENDIX I – SELF EVALUATION

The processes and procedures in respect of missing persons will be the subject of ongoing review and self-evaluation via the Shetland Public Protection Committee and procedure updates within both Child Protection and Adult Support and Protection.

The Missing Person Operational Co-ordinator for Police Scotland (P Division) will have responsibility for reviewing all calls made to Police Scotland to report a missing person and assessing compliance with the protocol.

Return Home Welfare Interview compliance and quality of information obtained will also be monitored via the Missing Person Operational Co-ordinator. Where an interview is requested it will be tasked to the relevant agency to complete within the 72 hour guideline. There should not be an expectation that interviews are conducted out with normal working hours of 9am-5pm.

Any issues regarding non-compliance with the protocol will be raised with the appropriate agency and via the Self-Improvement and Evaluation Working Group. Significant or ongoing issues will be escalated to the Missing Person and Human Trafficking Group for further discussion and collaboration to resolve these issues.

