

# Adult Support and Protection: Ensuring Rights and Preventing Harm

The Adult Support and Protection (Scotland) Act 2007 was introduced on 29 October 2008. The purpose of this Act is to provide ways in which support and protection can be offered to adults at risk of harm, who are unable to safeguard themselves, because they are affected by disability, mental disorder, illness or physical or mental infirmity.

## General Principles of the Act:

- any action taken through the Adult Support and Protection (Scotland) Act 2007 must provide benefit to the adult and be the least restrictive option available.

## The Act provides:

- a duty to inquire and investigate where harm is suspected
- a requirement for public bodies to cooperate with local councils
- a range of protection orders: assessment, removal and banning, where serious harm is suspected
- a legislative requirement for local authorities to set up Adult Protection Committees to oversee the effectiveness of multi-agency prevention and protective practices

## Edinburgh Lothians and Borders Multi-agency Guidelines and Adult Protection Procedures:

If you witness, suspect or receive information about an adult at risk of harm, you have a duty to report this. The Multi-agency Guidelines and the Adult Protection Procedures for the local area where you work describe the steps you must follow and who should be contacted. These documents are available on your own organisation's intranet site.

### Who is an adult at risk of harm?

An adult at risk is defined as a person aged 16 or over who is:

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

### What is harm?

Harm is defined as **all** harmful conduct and in particular includes:

- ⇒ conduct which causes physical harm
- ⇒ conduct which causes psychological harm (e.g. by causing fear, alarm or distress)
- ⇒ unlawful conduct (e.g. theft)
- ⇒ conduct which causes self-harm

### Possible signs of harm:

There are many signs of harm. It is important to consider any changes to the well-being of a person at risk. Some examples are:

- ⇒ unexplained or unusual injuries
- ⇒ misuse of medication, e.g. not giving medicines properly
- ⇒ unexplained changes of behaviour, e.g. becoming anxious and withdrawn, fear of another person
- ⇒ unexplained debt, not paying bills for services
- ⇒ the use by another person of the adult's possessions, bank account or property without his or her informed consent
- ⇒ pressure by family or professionals(s) to have someone moved into or taken out of care
- ⇒ hostile or unkind behaviour by a care-giver
- ⇒ the adult at risk is not receiving appropriate care, which would protect them from harm
- ⇒ unexplained deterioration in health or appearance
- ⇒ a long delay between illness/injury and the person getting appropriate treatment
- ⇒ the deprivation of basic needs, such as adequate food or heating
- ⇒ prejudicial actions or remarks to the adult at risk about age, gender, disability, race, colour, sexual or religious orientation
- ⇒ failure to provide adequate information, not being informed of rights, or being misinformed

### Where can harm occur?

**Anywhere.** For example: in the family home, in any social or health care setting, hospital ward, care home, day service, social club, leisure activities, place of work or any public place.

### Who can cause harm?

**Anyone.** For example: a relative, unpaid carer, spouse/partner, professional carer, volunteer, another service user, stranger, member of the public or the "adult at risk" may be harming himself/herself.

The means that the Act can be used to deal with *any* harm, whether this has been perpetrated with or without deliberate intent. Categories of harm include, for example: physical; sexual; emotional/psychological; financial or material, neglect and acts of omission; discriminatory; human rights; or in relation to the misuse or withholding of information. The Act may also be used for "adults at risk" who are harming or neglecting themselves or who are experiencing Domestic Abuse.

# What to do immediately:

## When harm is suspected, witnessed or reported

### YOU HAVE A DUTY TO REPORT

You must immediately report suspected or actual harm to your line manager or supervisor.

In addition, there is a legal duty to report any concerns to the council social work services, if it is known or believed that a person is an "adult at risk" and that protective action is needed.

Ref: Adult Support and Protection (Scotland) Act 2007 Section 5[3]

**ALWAYS RECORD EVERYTHING IN WRITING:**

Actions, discussions, referrals, decisions, etc.

#### ⇒ In an EMERGENCY

- If the person is in immediate physical danger 'phone 999. Urgent assistance or advice can also be obtained through contacting NHS 24 or Social Work Services (and outside office hours, the Emergency Social Work Service.)

#### ⇒ If you suspect a crime has been committed:

- **This should always be reported to the police as soon as possible:**
- In the case of physical or sexual harm, immediate referral is essential. This is to ensure that the person receives appropriate medical attention and that vital evidence is not lost (refer to the Multi-agency Guidelines and your council's Adult Protection Procedures).

#### Get the person's consent

If possible, discuss with the adult at risk their view of the situation. Inform them that you will report concerns to your line manager. It is preferable to obtain consent to take further action. However, even without the adult's consent, you will be required to take further action – refer to 'If consent is not given' section adjacent.

#### If consent is not given:

##### You have a legal and professional duty to report:

- The person's circumstances and their view of their situation must always be reported to your line manager.
- The law states that staff within the Council, Health, Police, Care Commission, Mental Welfare Commission, and Public Guardian, have a legal duty to report the facts and circumstances to the Council social work department, if they know or believe that a person is an "adult at risk" and that protective action is needed. This means that even without the adult's consent, information must be shared in this instance – this is a legal requirement. The Code of Practice for the Adult Support and Protection (Scotland) Act 2007 makes it clear that all staff, including staff within the voluntary and independent sector also have a duty to cooperate and report any concerns about an "adult at risk" to the Council social work department.  
Ref: Section 5[3] Adult Support and Protection (Scotland) Act 2007 & Code of Practice for the Act.

#### ↻ Useful Phone Numbers ↻

- Emergency – 999
- NHS 24 – 08454 242 424
- Lothian and Borders Police  
0131 311 3131
- Edinburgh Social Work Services  
Social Care Direct – 0131 200 2324
- East Lothian Social Work Services  
0845 603 1576
- Midlothian Social Work Services  
0131 271 3900
- Edinburgh, East & Midlothian Social Work Services  
out of hours 0800 731 6969
- West Lothian Social Work Services  
01506 775 000 out of hours 01506 777 401/2
- Scottish Borders Council Social Work Services contact  
the local social work office or 0300 100 1800  
out of hours 01896 752 111

#### Even if you are unsure if a person is an "adult at risk", action *must* be taken in the following circumstances:

- imminent physical threat to the person
- risk to public safety (i.e. is anyone else at risk from being harmed?)
- a person who provides a service is suspected of causing the harm (e.g. a care worker, nurse, doctor, ambulance driver, police officer, teacher or volunteer)
- if you are unsure of the person's ability or capacity to make a decision about the situation, discuss with your line-manager or supervisor and/or refer to the Social Work Services without delay
- you are concerned that the person is not able to consent or co-operate because they are being pressurised by another person or afraid of another person
- if the person lacks the capacity to make a decision about further action, you *must* take action and report your concern to local Social Work Services.

**Line managers and supervisors can contact the local Police Family Protection Unit or Duty Inspector to discuss or get advice.**

**Remember, all concerns must be reported to your line manager. Referrals to local Social Work Services must be made as soon as possible.**

#### ⇒ What happens next?

An Adult Support and Protection Case Conference may be arranged by the local Social Work Service to plan ongoing work with the adult at risk of harm. The Multi-agency Guidelines and local Adult Protection Procedures will provide more detail.