

# Adult Support and Protection in Orkney

An overview of local ASP procedure  
and how to act when a vulnerable  
person might be at risk of harm.

# The legislation

- **The Adults with Incapacity (Scotland) Act 2000** provided means to protect those with incapacity, for example through part 6 via financial and welfare guardianship. For most people- the Act allows you to grant a power of attorney in advance of problems happening.
- **The Mental Health (Care & Treatment) (Scotland) Act 2003** set out powers and duties in relation to people with mental disorder including those who are subject to ill-treatment or neglect.
- **The Adult Support and Protection (Scotland) Act 2007 (ASP)** was passed by the Scottish Parliament in February 2007, with Part 1 implementation due in October 2008.
- **The ASP Act** was designed to fill in gaps in previous legislation related to the protection of adults who may be at risk and can be used to help both adults with capacity and adults lacking capacity, including adults with a mental disorder.

# Powers and Duties

- **The ASP Act introduced new adult protection duties and powers, including:**
  - **Council duty to inquire and investigate**
  - **Duty to consider support services**, such as independent advocacy
  - **Other duties and powers** - visits, interviews, examinations
  - **Protection Orders:** assessment, removal, banning and temporary banning
  - **Warrants for Entry, Powers of Arrest and Offences-** via the Sheriff
  - **Duty to establish Adult Protection Committees across Scotland**

# Principles of the ASP act

**A public body or office holder must be satisfied** that an 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.

# What does this mean

- In practice this means that use of the act is essentially a last resort
- in Orkney the aim is to explore all other means of achieving reduction of risk- using normal case work methods and support- first
- That any action taken- under the act or otherwise- does not reduce quality of choices for the person
- That any action agreed should have some benefit for the person – including the principle of reciprocity- if we have to reduce choice in an area to reduce risk, ensure that choices in other areas are supported and promoted.

# Guiding Principles and what this means:

- We need to think out how to get the views of a person with cognitive impairment
- We need to make sure that the person at risk is involved as much as possible in the process
- We need to plan to ensure that the person has the information they need in the right way so they can understand what is going on
- We need to understand that people are not all the same
- We need to help colleagues who worry about risk to understand that people need to live their own way as much as possible.

# When does a person come under the Act?

The “**Three Point Test**” will help you assess if the adult meets the criteria to be seen as being at risk under the Act:

- Is the person unable to safeguard(look after) their own property, wellbeing, rights or other interests?
- Is the person at risk of harm? AND
- Is the person more vulnerable because of disability, mental disorder, illness or physical or mental infirmity to being so harmed than a person not so affected?

# What does “Harm” mean in practice?

- The impact of the action/event is different for each person depending on resilience, life experience and coping skills.
- What might have been OK when well and fit may become harm in the context of frailty and cognitive impairment
- Harm depends on circumstances



# What kind of abuse ?

- **Physical:** hitting, slapping, pushing, kicking, holding the person down (restraint), inappropriate sanctions.
- **Sexual:** includes rape and sexual assault
- **Financial or material:** theft, fraud, exploitation, pressure to hand-over or sign-over property or money, financial transactions, misuse of property, possessions or welfare benefits, reduction in assets
- **Psychological:** emotional abuse, threats, abandonment, humiliation, intimidation, harassment, verbal abuse, controlling, not allowed contact with other people or services,
- **Neglect and acts of omission:** failure to provide: medical or physical care; access to medical, social or educational services; appropriate medication, food or heating.

# Signs of Harm

- Unusual or unexplained injuries
- Misuse of medication: giving too much, too little or withholding medication.
- Fear of another person, disturbed behaviour
- Acts or actions done to which the adult at risk could not, or did not, consent
- Unexplained debt, not paying bills for services, poorer off than they should be
- Sale of property, possessions, misuse of bank account by the perpetrator
- Pressure over wills, property, inheritance, money
- Pressure by family or professional to have someone moved into or taken out of care
- Hostile or rejecting behaviour by the care-giver
- Person is found alone at home or in a care setting in a situation of serious risk
- Unexplained deterioration in health
- Long gap between illness/injury and getting medical care
- Deprived of adequate food or heating

# How to refer

- Speak to someone you trust
- Write down what you saw or heard or were told as soon as you can
- Phone the Social Work department to talk through your concerns as soon as you can.
- Out of office hours, phone the emergency duty social worker or the police.

## What happens when a referral is made

- The duty worker takes details of the issue, names and addresses etc. of the person at risk and who/what may be causing this along with any witnesses.
- The Adult Social Work team manager arranges a discussion with the police so that any alleged offence can be dealt with properly and that any decisions are shared.
- A worker(council officer) will be appointed to investigate.

# Duty to Investigate

- At a Planning meeting with the Police, people involved will plan how best to investigate, how to interview the person at risk and how to keep them safe.
- The person will be seen as soon as possible to check how they are and what they think about the risk.
- It is usually necessary to get the GP's opinion about the person's capacity to understand and make decisions.

# Powers under the Act

- Council Officers have powers to see the person.
- If it is impossible to get to see the person by agreement or negotiation, a warrant can be sought from the Sheriff
- The act can allow a person to be taken to a place of safety under a warrant
- Orders to ban some one from the person's house can be sought from the Sheriff

# Risk assessment and protection plans

- Workers will write a risk assessment and from this, a protection plan will be worked out.
- Where an offence has been committed, police will take action as required.
- Supportive services and help from family and the community will be coordinated through the protection plan.

# Ongoing risks that can't be reduced

- A case conference will be organised to look at action needed to safeguard the person.
- From this, further legal action may be taken: AWI (Adults with Incapacity Act) orders or action via the Adult Support and Protection act.
- A core group will be set up to monitor the  
tion plan and risk assessment.



# Risk reduced/removed

- If the source of risk can be reduced or removed, Adult Support and Protection process can be concluded.
- Supportive service from agencies and family/community can continue as normal
- Any new triggers for risk are identified and kept under review by those involved.

# Some Statistics

- The last Adult Support and Protection case conference was in 2012
- There were 6 cases meeting the 3 point test in 2015-16
- Almost all referrals come from Police Scotland