

EAST RENFREWSHIRE

ADULT PROTECTION COMMITTEE

Adults need protecting too

Understanding Adult Support & Protection

Self-Learning Pack 2017 - 2019



**Essential information for managers and
practitioners working in adult and child Services
across East Renfrewshire.**

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Introduction

East Renfrewshire Adult Protection Committee offers this pack, which reflects the Adult support and Protection (Scotland) Act 2007 and the West of Scotland ASP Procedures can be viewed here:

www.eastrenfrewshire.gov.uk/erapc

The pack is designed as a first step learning tool to ensure those involved in the protection of vulnerable adults whether directly or indirectly, including those working in child services, have as a minimum a working knowledge of adult protection and its legislative framework. This **ERAPC Self-Learning Pack – Understanding Adult Support & Protection (2017-2018)** forms a key part of our training materials and offers essential information on adult protection issues for those who may not need to attend a training event, only require foundation level information, or are waiting to start their training with us.

It should always be treated as **FIRST STEP** information for those with an interest in this area and does not replace the need to take the further learning steps you may need. Professionals, volunteers and members of local community groups can access our full Adult Protection Learning & Development Programme (FREE) and find out how to apply for a place from our wide range of other courses by visiting the Improving Practice page of our website.

What's involved in completing this?

The materials are designed to enable you to recognise an adult protection situation and understand your role in ensuring the continued protection of vulnerable adults in East Renfrewshire.

Throughout the pack, activities are provided which are intended to offer an opportunity for practitioners / volunteers and their managers / group leaders to reflect on the learning achieved and identify future learning needs. On completion, practitioners will have sufficient foundation knowledge in adult protection to get started, and will be well placed to derive maximum opportunity from ERAPC training and development opportunities available.

www.eastrenfrewshire.gov.uk/erapc

Aims and Learning Outcomes

This pack is suitable as a first step for:

Practitioners (all levels) working in East Renfrewshire across the multi-agency partnership that have a role in the protection of vulnerable adults. This includes those working in Children's Services.

It will provide:

- An introduction to adult support and protection and;
- An opportunity to explore your role in the protection of vulnerable adults.

On completion you will have:

- Increased your knowledge about how to recognise and respond to adult support and protection issues.
- Explored the adult support and protection process in East Renfrewshire.
- An awareness of your own agency adult support and protection procedures.
- A foundation knowledge of adult support and protection and be aware of further training opportunities.
- Have identified your own further learning needs in adult support and protection.

You will have located and considered:

- The East Renfrewshire Adult Protection Committee Website:
www.eastrenfrewshire.gov.uk/erapc
- West of Scotland Inter-agency Adult Protection Procedures:
www.eastrenfrewshire.gov.uk/erapc
- Your own agency adult protection procedures and relevant documentation used for recording and referring cases where there is concern that an adult may have been harmed or may be at risk of harm or abuse.

Our Responsibilities in Adult Protection

We all have responsibilities to ensure that adults who may be at risk of harm in our communities are safe, respected and included, with clear communication routes and fully involved in all decision making. Our aspiration, for all adults who may be at risk of harm in our communities in the West of Scotland, 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.

Completing this pack and the associated exercises will assist you in understanding what the actions are that should be taken by agencies to meet their duties under the 2007 Act. It reflects the West of Scotland Inter Agency Adult Protection Procedures and can be used by all agencies, especially the voluntary and private sector agencies, knowing that each Adult Protection Committee who signed up to it, like East Renfrewshire, has agreed in principle that it reflects local practice and local procedures.

Seen Something - Say Something

We highly recommend you take the time to visit this website which includes easy guidance on what to do and also has a video campaign that you can watch and share with others: <http://www.actagainstharm.org/>



ERAPC Self Learning Task 1

Please take time to complete:

Local Social Work Office Details:

Telephone No: _____

Police Scotland Contact (Public Protection Unit)

Telephone No: _____

Line Manager/Designated Adult Protection Co-ordinator

Name: _____

Telephone No: _____

Location of own agency Adult Protection Procedures:

West of Scotland Adult Protection Procedures are here:

East Renfrewshire Adult Protection Committee website:

Out of hours contact:

Name: _____

Telephone No: _____



What does Adult Support & Protection mean?

Most adults, who might be considered to be at risk of harm, manage to live their lives without experiencing harm. Often this is with the assistance of caring relatives, friends, paid carers, professional agencies or volunteers. However, some people will experience harm such as physical harm, psychological harm, sexual harm or exploitation of their finances or property. The Adult Support and Protection (Scotland) Act 2007 was introduced to maximise the protection of adults at risk of harm. The Act has 5 parts to it, this self-learning pack relates mainly to Part 1. You can find out more about the full Adult Support and Protection (Scotland) Act 2007 Act here:

<http://www.actagainstharm.org/about-the-act/>

The Adult Support and Protection (Scotland) Act 2007 Act is a piece of law to try and protect people from being harmed. This is because there are certain people who might find it more difficult to stop harm happening to them. The Adult Support and Protection (Scotland) Act 2007 calls people in this situation 'adults at risk'. 'Adults at risk' might include people over 16 years (unless known to child protection / children's services – see ERCPC Transitions Guidance - 2016) who:

- find it difficult to keep themselves or their property (their home, the things they own) safe;
- might be harmed by other people;
- might be more vulnerable because of a disability, illness or mental disorder (this could mean people with mental health problems, people with dementia, and people with learning disabilities).

What is meant by Harm in Adult Protection?

Harm: In the 2007 Act - Section 53 states harm includes all harmful conduct and, in particular includes:

- Conduct which causes physical harm,
- Conduct which causes psychological harm (for example by causing fear, alarm or distress),

- Unlawful conduct which appropriates or adversely affects property, rights or interests (for example theft, fraud, embezzlement or extortion),
- Conduct which causes self-harm

Neglecting someone you are meant to be caring for, either intentionally or unintentionally

Possible Signs of Harm or Abuse

- Unexplained or unusual injuries.
- A delay in seeking treatment for injuries or illness.
- Sudden increase in confusion.
- Unexplained deterioration in the adult's health or neglected appearance.
- The adult being anxious, afraid or withdrawn.
- Misuse of medication, e.g. not giving medicines properly.
- Pressure by family or professionals to have someone moved into or taken out of care.
- Hostile or unkind behaviour towards the adult.
- Unexplained debt, not paying bills for services.
- Not having basic needs met, such as adequate food or heating.
- Not being provided with information on rights or entitlements, or being misinformed.
- Harassment about age, gender, disability, race, colour, sexual or religious orientation.
- Another person using possessions, bank account or property without the adult's informed consent.
- The adult not receiving care, which would protect them from harm.

The assessment of harm and the risk of harm are important elements under the 2007 Act. The definition of an adult at risk requires an assessment to be made about the risk of harm to the person at the outset.

Definition of Harm

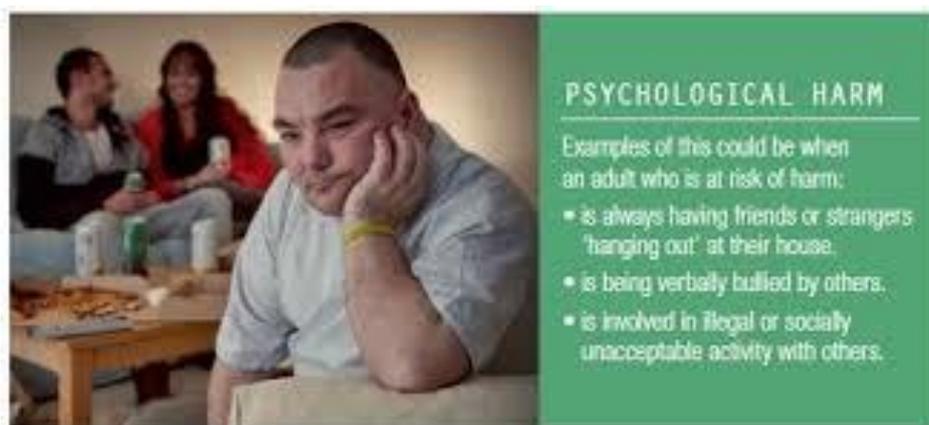
The definition of harm in the 2007 Act sets out the main broad categories of harm; physical, psychological, sexual, neglect and finances, interests and property.

Physical harm

This is when a person deliberately hurts someone else by punching, kicking, slapping, or shaking. Making aggressive physical contact with someone is known as assault. It is against the law to hurt someone intentionally.

Psychological harm

Words do hurt. Especially when used to frighten, threaten, humiliate or control another person, or making them feel isolated. Vulnerable people can be targets for others taking advantage of them; for example, using their home and belongings or pressuring them into being involved in illegal or socially unacceptable behaviour.



Sexual harm

Sexual activity requires permission, known as 'consent'. However, in order to give consent a person must fully understand what they are consenting to. They also need to understand that they have the right to refuse to do anything they don't feel comfortable with – at any time – even if they have previously given permission. It is a serious crime to coerce, threaten or force someone to engage in any type of sexual activity.

Neglect

Neglect is when someone is not being cared for properly, either by themselves or by the person or authority responsible for them. A neglected person may not have enough food to eat or be living somewhere that's cold, dirty or damp, or they may not be fully dressed or appear to have washed. They may be being denied important medical and social care. It is important that everybody gets the professional help they need, especially if they take medication.

Self-harm and self-neglect

Self-neglect is the inability to perform activities of daily living, even though the adult understands the need to do them. It can include an inability to recognise unsafe living conditions. However, adults have a right to make their own decisions, including the use of alcohol and drugs, even if that means they choose to remain in situations or indulge in behaviour which others consider inappropriate. Without any additional vulnerability, such as an illness or disability, adult protection intervention would not normally be appropriate.

Financial Harm

Financial harm is becoming an increasing concern and constitutes a significant proportion of all adult protection referrals. Often those who become victims of financial harm are not always recognised as "vulnerable" as they may have capacity or safeguards in place through appointee-ships, powers of attorney or financial guardians. While in the most part these safeguards work well, there are instances where these protective factors no longer meet the principle of best interest of the adult.

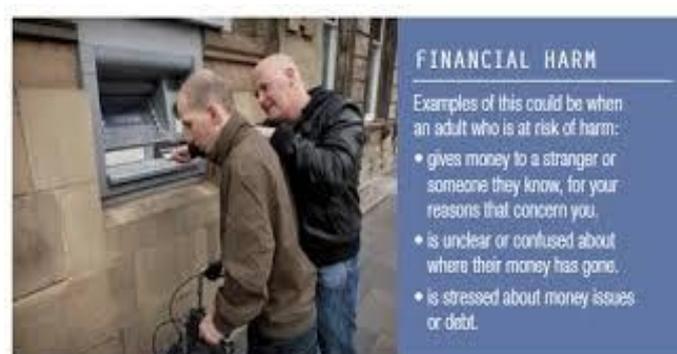
When an adult protection referral is received relating to financial harm:

The Council has a duty to make inquiries under Section 4 of the Adult Support and Protection (Scotland) Act 2007.

The responsible manager will review the information and decide in accordance to their local procedures if:

- Immediate action is required in relation to the adult deemed at risk or;
- Further investigation should take place to inform any decision to support and protect the adult.
- Where it is suspected that a crime has been committed the police should be alerted.
- Where the adult has a **power of attorney** or financial guardian in place and they are suspected of breaching their "Fiduciary duty" the Office of the Public Guardian (OPG) should be alerted and all information passed to them for further investigation.
- Where the adult has an appointee the Department of Works and Pension (DWP) should be alerted for them to pursue further investigation and action. The DWP have agreed a form for Council Officers to use in respect of S10 requests for information.

Local authorities are required maintain regular contact with the DWP and OPG to confirm the outcome of their investigation and share information on how best to protect the adult from harm.



Serious harm: a council may apply to the sheriff for one of the available Protection Orders (i.e. Assessment Order, Removal Order or Banning Order).

The Sheriff may grant an order only if satisfied, amongst other things, that the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, seriously harmed.

There is no definition of 'serious harm' provided in the 2007 Act.

The Law - Legislative Responsibilities

Legislative responsibilities in relation to the support and protection of adults at risk of harm are contained within the **Adult Support and Protection (Scotland) Act 2007**. In addition, there are two other Acts which provide provision for this in relation to the support and protection of adults, these are; the **Adults with Incapacity (Scotland) Act 2000** and the **Mental Health (Care and Treatment) (Scotland) Act 2003**.

All three Acts have similar principals, including that any use of legislation must:-

- Provide benefit to the adult, be necessary and be the least restrictive option for the adult.
- Take into account the past and present wishes of the adult, where this can be ascertained.
- Ascertain the views of relevant others.
- Respect the adult's individual abilities, background and characteristics.
- Ensure the adult is not treated less favourably than any other person who does not meet the criteria for an 'Adult at Risk of Harm' would be treated in a comparable situation.

An adult (aged 16 or over*) is only considered to be an Adult at Risk of Harm in relation to the Adult Support and Protection legislation if they meet all of the following three criteria:

1. They are unable to safeguard their own wellbeing, property, rights or other interests, **and**;
2. Are at risk of harm, **and**;
3. Because they are 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.

**NB - In some circumstances an adult is over 18 years. Please refer to Appendix 1 on page 25 of this self-learning pack for more information on young people moving into adulthood.*

The Reviewed Code of Practice to accompany the Adult Support and Protection (Scotland) Act 2007 was produced in 2013. This pack is complemented by the West of Scotland Inter-Agency, Adult Support and Protection Practice Guidance and local single agency Adult Support and Protection Policy, Practice Standards and Operational Procedures. You can view current adult protection procedures here:

www.eastrenfrewshire.gov.uk/erapc

More information can be found in Appendix 2 of page 27

Making an ASP Referral

Anyone can make an Adult Support and Protection referral for themselves, or an adult they know or believe to be at risk of (any type of) harm, including self-harm. However, all staff employed by Police Scotland, the Local Authority or the NHS Board have a legal duty to refer any adult they think might meet the ASP criteria.

In East Renfrewshire, all ASP referrals submitted, receive an ASP Inquiry to establish the circumstances and confirm the adult meets the ASP criteria. Even where the ASP criteria are not met, other appropriate supports can be considered out with the context of ASP.

If the circumstances indicate a requirement to proceed to the next stage in the process – an **ASP Investigation** is undertaken, including a full risk assessment. The needs of the Adult and any Carer they might have, is considered. A report called an AP1 is completed with the full details of the concern. The investigating officer has been given (within the 2007 Act) the title of **Council Officer**. This will be your main point of contact.

Where appropriate, a multi-agency **ASP Case Conference** will be convened for all relevant parties to meet (the adult and any key personal supporters – e.g. Carer, friends, family etc. will usually be invited to this Conference) to discuss the best way forward. A Protection Plan will be developed, detailing who will do what and when.

While the person remains under the auspices of ASP legislation, a 3 monthly Review will normally be undertaken to update on progress and adjust the Protection Plan as necessary.

When an adult protection investigation is undertaken, staff must actively consider the needs of any child within the household and any child for whom a vulnerable adult has caring responsibilities.

Staff must also check whether there have been any previous child protection concerns about any relevant child. Further joint assessment with children's services may be indicated.

This should be recorded on the adult support and protection investigation paperwork (known as the AP2).

Protection Orders

The ASP Act allows for 3 types of Protection Order to be applied (to the Court) for:

- **Assessment Order** (to gain access to the adult to conduct an assessment of their circumstances)
- **Removal Order** (temporarily remove the adult to a place of safety)
- **Banning Order** (temporary or permanent) – to ban identified individuals from the adult for a period of up to 6 months (further Banning Orders can be applied for at the end of the 6 months if required).

Understanding the Different Orders

Protection orders

Because any protection order under the Act represents a serious intervention in an adult's life, a sheriff must be satisfied that the council has reasonable cause to suspect the Person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, at risk of serious harm. Where the adult has the capacity to make decisions, the application cannot be granted by the Sheriff if the adult does not consent to the order unless it can be proved that the adult has been subject to undue pressure to refuse consent.

Assessment Orders

The council officer can apply to the Sheriff for an *Assessment Order* which authorises the council, if necessary, to take the adult from a place being visited under the order to allow:

- the interview to be conducted in private and /or
- a private medical examination by a health professional nominated by the Council.

An assessment order does not contain powers of detention. An Assessment Order can be enacted for up to 7 days after the date specified in the order (this may not be the date on which order is granted). An assessment order does not contain powers of detention. **The adult can refuse to be interviewed or examined** despite the assessment order.

Removal Orders

The council officer can make application to the Sheriff (or Justice of the Peace in certain circumstances) for a *Removal Order*, which would allow the removal of the adult to another place primarily for the purposes of protection.

A removal order must be effected within 72 hours of being granted and can then last for a maximum of 7 days. A removal order does not contain powers of detention. The adult can refuse to be interviewed or examined despite the removal order.

Banning Orders or Temporary Banning Orders

Banning of the person causing, or likely to cause the harm from being in a specified place.

Application can also be made by **any** person, including the adult at risk of harm, to the Sheriff for a *Banning Order* in respect of a person or persons considered to be placing or likely to place an adult at risk of **serious** harm. Conditions can be placed on banning orders by the Sheriff, which includes the length of time of the order (up to 6 months) and contact. The Sheriff can also attach a power of arrest. There is an appeals mechanism.

Adults with Incapacity

This refers to people who lack capacity and who are at risk of harm. In terms of the Adult Support and Protection (Scotland) Act 2007, an 'Adult at Risk' includes people aged 16 or over with a disability, illness or physical or mental infirmity, which makes them more vulnerable to harm (whether that be harm from another person or self-harm) than those without such conditions. Section 3 of the Act states:

An adult is at risk of harm for the purposes of subsection (1) 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.

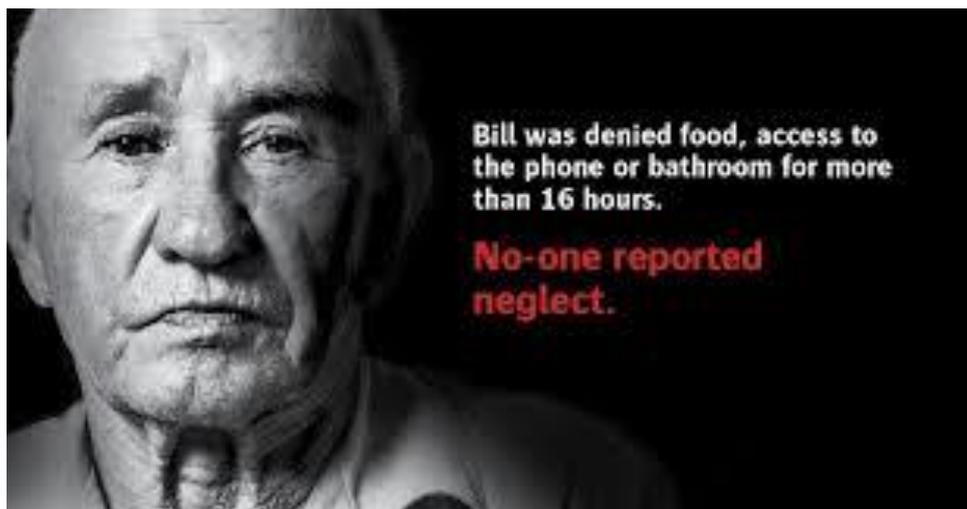
Similar to the process detailed above in relation to Adults with Incapacity, there should be liaison among all involved services and Adult Services to ensure that all relevant information is available to Adult Services. Should there be concerns that the young person is an 'Adult at Risk' in terms of the Act, an Adult Support and Protection Case Conference should be convened to consider whether that person meets the three point test detailed in Section 3(1) of the Act and if so, whether an order under the Act is appropriate.

There will be cases where the vulnerable adult clearly meets the test of being an 'Adult at Risk', but where none of the protection orders available under the Act are appropriate. In such cases, the young person should be recorded as an 'Adult at Risk' and the case should be monitored and reviewed, as appropriate. Alternatively, where it is deemed appropriate to seek an order under the Act, whether that be an Assessment Order, Removal Order or Banning Order, liaison should take place between Adult Services and Legal Services, although, generally speaking Legal Services would be in attendance at the Case Conference.



The Right to Anonymity

Those working / living in the local community are often the first to have a concern. Tell us when you have a concern whether you are at work or not. As a member of the public you have a right to remain anonymous. You can request anonymity as a professional but you must let social work or the police know who you are when you call. If granted they will not share who made the referral any further. It is not possible in all circumstances.



ERAPC Self-Learning Task 2

My agency adult protection procedures are located:

I understand I need to read the adult protection procedures in my workplace setting and / or have accessed relevant documents from the East Renfrewshire Adult Protection Committee Website.

Signed _____ **Date** _____

It is important that anyone working with vulnerable adults refers to their own agency adult protection procedures (*or the information provided on our website*) whenever there is a concern that someone has been harmed or suffered abuse.

If I am concerned or worried about a vulnerable adult I should be aware of whom I need to talk to and how to make a referral

The designated adult protection person in my organisation is:

Their contact details are:

I should also remember to:

- Record the actions you have taken as soon as practicable, signed and dated preferably within 24 hours.
- Follow any verbal referral with a written referral within 24 hours, to the relevant Social Work Team.
-
- Discuss with my line manager or the designated adult protection person in my organisation.

Reporting emergencies or when a crime may have been committed

If a person is in immediate physical danger then a 999 call should be made to request urgent assistance or advice from the appropriate emergency services. Callers may follow this with a call to local Social Work Services to advise them of the situation or, outside of office hours, make a referral to the Emergency Social Work Services Team. This should be followed up with an adult protection referral AP1 within 1 working day.

If you suspect a crime has been committed then you should encourage the adult to report this to the Police and offer to support them to do this. If the adult will not report the matter to the Police, you should make the report yourself and advise the Police that it relates to someone who may be an adult at risk in terms of the 2007 Act and if the adult has consented to the report being made or not consented. In the case of physical or sexual harm, immediate referral to the Police is essential. This is to ensure that the person receives appropriate medical attention and that vital evidence is not lost. Follow up with a referral to social work services and advise them that a referral has also been made to the Police.

The Police will log the referral and take appropriate action to ensure the victim is safe. The Police will make enquires and /or investigate the incident further. The information shared is put on a police form called a VP1.

The VP1 clearly states whether the Police are merely sharing information in the form of a Police Concern – or submitting an ASP Referral – marked as an Adult at Risk of Harm, to refer adults at risk of harm to social work services. Police and Social Work Services should continue to liaise throughout to ensure appropriate support and protection to the adult.

Does the adult need to consent to an ASP referral?

If possible discuss with the adult at risk their view of the situation. Inform them that you will report concerns to your line manager and that these will be recorded. It is preferable that the adult consents to further action being taken but even without the adult's consent public bodies have a duty to report under the 2007 Act. **Voluntary and private sector agencies** are expected to report actual or suspected harm to an adult at risk. When making a referral to the Police or Social Services under the 2007 Act you should advise if the adult has consented to the referral or not.

The law in relation to adult capacity (i.e. anyone over the age of 16) makes a distinction between those who are capable of making decisions and managing their own affairs and those who are not. Social work services consider capacity and incapacity in every referral they receive including referrals relating to adults at risk of harm when deciding the most appropriate action to support or protect the adult. If you think the adult may lack capacity to make decisions about welfare or financial matters this should be mentioned in your referral.

Will reporting harm breach a duty of confidentiality?

A proper function of a public body making a referral may include being bound by a duty of confidentiality. It is noted however under Section 5(3), if the public body or office holder knows or believes that person is an adult at risk of harm and that action is needed to be taken under Part 1 of the 2007 Act to protect them from harm then the facts and circumstances of the case must be reported to the council for the area in which it considers the person to be located.

If NO Consent given - Even without the consent of the adult, public agencies and office holders are required to take further action as you have a legal and professional duty to report harm to adults at risk. Voluntary and private sector agencies should consider if Data Protection Act 1998 exemptions apply.

Sharing information and the Data Protection Act 1998

The Data Protection Act 1998 sets out the terms under which sensitive personal information can be shared without consent. All agencies should have an information sharing procedure in place and staff should follow this when disclosing information without consent.

Information sharing is permitted:-

- to protect the vital interests of the data subject or another person, for the administration of justice, or
- for the exercise of any functions conferred on any person by or under an enactment, or for medical purposes

Whilst confidentiality is important, it is not an absolute right. Co-operation in sharing information is necessary to enable a council to undertake the required inquiries and investigations.

Information should only be shared with those who need to know and only if it is relevant to the particular concern identified. The amount of information shared should be proportionate to addressing that concern. Adults who may be subject to harm may be anxious about the information being shared with others. It is the record holder's responsibility to determine what information should be passed to the Council Officer.

There may be some areas of crossover between child protection and adult protection information, particularly when dealing with families, where there may be children and adults at risk.

Harm from paid staff towards an adult at risk

All Agencies should have an adult protection and/or disciplinary procedure that take account of harm occurring from a paid [or volunteer] member of staff. In all cases agencies should follow this procedure while recognising that social work services / Care Inspectorate and/or the Police may also be involved dependent on the nature of the harm alleged or evidenced. Agencies should work with together to ensure that information is shared and that actions taken are coordinated and managed appropriately.

More details about information can be found by visiting the Information Commissioners Office website here:

<https://ico.org.uk>

ACTION FOR ELDER ABUSE

HELPLINE - 

080 8808 8141

CALL for confidential help AND advice on all aspects elder abuse

<http://elderabuse.org.uk/scotland/>

ERAPC – Self Learning Task 3

Exploring Your Role

In relation to what you might be expected to do after making an adult protection referral, take the opportunity to discuss the implications for you in relation to these tasks with your line manager or the person in your organisation responsible for adult protection.

Please complete:

1. What will your role be in the adult protection process?

2. What support might you need?

3. Do you need any training now?

4. What future learning needs may you have?

A printable copy of the current Adult Protection Training Programme is available from our website. Courses are FREE – Book Adult Protection Awareness TODAY!

www.eastrenfrewshire.gov.uk/erapc

ERAPC - Self Learning Task 4

Continued Professional Development

You should now have read and completed the exercises within this pack.

Along with your line manager or person with responsibility for adult protection within your organisation, please complete the following.

I have had the opportunity to read this pack and its appendices.

Signed _____

Date _____

I have had the opportunity to discuss the implications of this with my line manager or person with adult protection responsibility.

Signed _____

Date _____

We have agreed what my future learning needs in adult protection are and these will be met by:

Congratulations - Please now print your certificate!

Self – Learning Certificate

Understanding Adult Protection



This is to certify that _____ (name)

Viewed **East Renfrewshire Adult Committee Website** and completed the above named Self –Learning pack as a first step to learning about Adult Protection in East Renfrewshire.

Signed by _____ (line manager)

Date _____

NOTE TO THOSE READING CERTIFICATE:

East Renfrewshire Adult Protection Committee offers this certificate as part of a **Self-Learning Pack – Understanding Adult Protection** that assists people learn about adult protection issues. It is designed for those who may not need to attend a training session, or only require foundation level information, or are waiting to start their training with us.

It should always be treated as **FIRST STEP** information for those with an interest in this

www.eastrenfrewshire.gov.uk/erapc

16-18 Years: Moving into Adulthood

Generally speaking, where a young person turns 16, they will have the right to make their own decisions. Those holding parental rights and responsibilities in relation to the young person (whether parents or carers) will only have the right to provide guidance to the young person post 16. If a Local Authority holds a Parental Responsibility Order or a Permanence Order, the young person has a right to be supported by having their wellbeing assessed and access to appropriate services in place. It may be that those involved with the young person are unhappy with the choices they are making, but generally speaking, there is little that can be done if the young person has the capacity to make decisions and does not fall within the definition of an 'Adult at Risk' in terms of the Adult Support and Protection (Scotland) Act 2007. Of course, if the young person is behaving in a criminal manner, the matter should be referred to the Police.

Where a Compulsory Supervision Order – Children's Hearing (Scotland) Act 2011 is in place, the Children's Hearing or Panel will be able to make decisions in relation to the young person. In the case of a looked after child, ongoing support should continue to be offered post 16, whether that be on the basis of 'continuing care' under the Continuing Care (Scotland) Order 2015 and the Continuing Care (Scotland) Amendment Order 2016 or whether that be under the general duty to provide guidance and assistance in terms Section 29(1) of the Children (Scotland) Act 1995. Care Leavers also have a right to assistance and advice from a Local Authority up to their 26th birthday.

The introduction and implementation of the Children and Young People (Scotland) Act 2014 **does not change current child or adult protection procedures** nor affect the associated responsibilities of services and professionals working with children and young people. The Police and/or Social Services should continue to be contacted immediately where a child or young person is perceived to be at risk of significant harm. All professionals involved in the child or young person's care and those who will become involved as the child moves into adulthood will assist in transition planning for the child or young person moving into adulthood on the basis that they will have an overview of the child and the issues affecting them. It is crucial

therefore that all professionals are involved in and consulted in relation to any plan for the child or young person. In some circumstances the young person concerned will continue to be supported using the legislative framework that applies for children until the age of 18 years or beyond (see page 12). This may be;

1. The Children (Scotland) Act 1995
2. The Children's Hearing (Scotland) Act 2011
3. The Children and Young People (Scotland) Act 2014

Young Adults with Incapacity

A young person should be regarded as having capacity to make decisions unless there is evidence to the contrary. However, where there are concerns in relation to the capacity of the young person to make decisions in relation to his/her welfare and/or finances, consideration will be required in relation to whether an order under the Adults with Incapacity (Scotland) Act 2000 is required in order to make decisions.

Discussion should take place among all involved services (child and adult services) in relation to any risks that may be around for the young person and any decisions that will require to be made in relation to the young person when he/she turns 16. A decision should be reached in relation to whether an order under the 2000 Act, whether that be a Welfare and/or Financial Intervention Order or a Welfare/Financial Guardianship Order should be pursued. Whilst a decision may require to be made prior to the young person turning 16, in terms of East Renfrewshire procedures, a decision to seek an order under the 2000 Act can only be made at an Adults with Incapacity Case Conference.

It is recognised that family members, carers or indeed anyone claiming an interest, wish to take on the role of Intervener or Guardian and they should be encouraged to seek legal advice in this regard at the earliest opportunity. If this is not the case, however, responsibility will fall to the local authority to make an application, either to appoint the Chief Social Work Officer, Head of Finance, or a solicitor in private practice depending on the nature of the order. Section 79A of the 2000 Act makes provision for an application for Guardianship to be made, and indeed granted, up to three months prior to the young person turning 16, albeit the order will not come into force until their 16th birthday. This provision is useful in bridging the gap and allowing the transition between childhood and adulthood to be as seamless as possible.

Important Information Sources

Legislation

- Social Work (Scotland) Act 1968
- Local Government (Scotland) Act 1973
- Local Government (Scotland) Act 1994
- Human Rights Act 1998
- Data Protection Act.1998
- Adults with Incapacity (Scotland) Act 2000
- Protection from Abuse (Scotland) Act 2001
- Regulation of Care (Scotland) Act 2001
- Community Care and Health (Scotland) Act 2002
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Antisocial Behaviour etc. (Scotland) Act 2004
- Vulnerable Witnesses (Scotland) Act 2004
- Emergency Workers (Scotland) Act 2005
- Adult Support and Protection (Scotland) Act 2007
- Protection of Vulnerable Groups (Scotland) Act 2007
- Public Health etc. (Scotland) Act 2008
- Sexual Offences (Scotland) Act 2009
- Offences (Aggravation by Prejudice) (Scotland) Act 2009
- Equalities Act 2010
- Children's hearing (Scotland) Act 2011
- Domestic Abuse (Scotland) Act 2011
- Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011
- Police and Fire Reform (Scotland) Act 2012
- Victims and Witnesses (Scotland) Act 2014
- Anti-social behaviour, Crime and Policing Act 2014
- Children and Young Persons (Scotland) Act 2014

Web based information:

- (1) [Adult Protection East Renfrewshire](#)
- (2) [Act Against Harm](#)
- (3) [Scottish Care - Adult Protection](#)
- (4) [Scottish Government - Adult Protection](#)
- (5) [Action on Elder Abuse Hotline](#)

NOTES PAGE: