

## Response ID ANON-PH4R-VNE8-Y

Submitted to Adult Support and Protection (Scotland) Act 2007: updated Code of Practice and Guidance for Adult Protection Committees  
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### Code of Practice - Questions

1a Chapter 2 seeks to clarify understanding of the previous distinction between people who are unwilling, and those who are unable to protect themselves. How well do you think these objectives are fulfilled?

Mostly

1b Secondly it seeks to provide greater clarity around issues of consent and capacity. How well do you think this objective is fulfilled?

Mostly

2a Chapter 3 seeks to strengthen the guidance around the duty to refer and the duty to cooperate. How well do you think these objectives are fulfilled?

Mostly

2b Secondly, Chapter 3 seeks to significantly strengthen the guidance in relation to expectations regarding information sharing. How well do you think this objective is fulfilled?

Completely

3a Chapter 5 seeks to give more detail in relation to the nature of referrals. How well do you think these objectives are fulfilled?

Completely

3b Chapter 5 also seeks to reflect the introduction of welfare concern referrals and IRD processes in some areas of Scotland. How well do you think this objective is fulfilled?

Mostly

4 Chapter 6 seeks to clarify the relationship between an inquiry and an investigation. How well do you think these objectives are fulfilled?

Not at all

5 Chapter 8 is a new chapter, providing more specific guidance in relation to risk assessment, case conferences, protection plans and managing risk. It seeks to offer greater clarity and explanation around these issues. How well do you think these objectives are fulfilled?

Mostly

6 The chapters on protection orders have been rationalised. Chapter 11 now covers the common elements of protection orders, and the subsequent chapters (12-14) focus on each type of order separately. The intention is to make this section more user-friendly but still provide sufficient guidance and clarity. How well do you think these objectives are fulfilled?

Mostly

7 If you would like to provide any comments or suggestions about the changes please do so here:

Please provide further comments in the text box below:

1a) Chapter 2 seeks to clarify understanding of the previous distinction between people who are unwilling and those who are unable to protect themselves. How well do you think these objectives are fulfilled?

The Scottish Association of Social Work (SASW) is part of the British Association of Social Workers, the largest professional body for social workers in the UK. BASW UK has 21,000 members employed in frontline, management, academic and research positions in all care settings. There are over 10,000 registered social workers in Scotland around 1,500 of whom are SASW members. This comprises staff working in local government and the independent sector, across health and social care, education, children and families, justice services, as well as a growing number of independent practitioners.

SASW's key aims are:

- Improved professional support, recognition, and rights at work for social workers
- Better social work for the benefit of people who need our services and,
- A fairer society

In preparing this response we consulted with members of the Association, particularly those with extensive experience in adult support and protection, and Mental Health Officers. Our comments reflect the views of frontline practitioners.

The objectives in this chapter are met to a certain extent, and it reads clearly without being overly prescriptive.

The holistic and trauma informed approach is welcome. It is positive that the code acknowledges the complex set of circumstances in a person's life that could lead to them being "unwilling" to safeguard themselves. SASW still has concern that the term "unwilling" versus "unable" is value laden language and implies real choice, when often this is not the case.

The chapter covers many scenarios which are useful including alcohol related brain damage, homelessness, and transitions to adult services, with a welcome acknowledgement of the complexity and need for ongoing assessment in these cases.

The Code should include clarity about where responsibilities lie when people who use services are unwilling/unable to engage, and where agencies such as health and Police do not remain actively involved. There is often an assumption that the responsibility for managing the identified risks lies solely with social work. This approach often leaves social work practitioners wondering what to do next and how they can support or protect the person, when there is no active involvement from other agencies and eligibility thresholds effectively preclude on-going case work.

Overall, the chapter needs to be more explicit with regards to the support element of adult support and protection. In instances where protective measures are not required, there may still be a need for a supportive framework to be placed around a person. SASW members referred to the inconsistent use of adult services care and support across Scotland. Such approaches are good practice and should become standardised. This is likely to require some social work and social care resource.

1b) Secondly, it seeks to provide greater clarity around issues of consent and capacity. How well do you think this objective is fulfilled?

In general, the chapter provides greater clarity around issues of consent and capacity and reads well as a multi-agency document for use across professions.

There is a welcome shift away from the requirement for medical diagnosis and a task and processed intervention, rather than a relationship-based approach. However, without a medical assessment of capacity, there is a risk that when someone is deemed unable to safeguard themselves it is not clear whose responsibility with whom future decisions lie.

An individual may have capacity in one area, but not in other, and this may fluctuate. The broad focus on capacity within the chapter, where the issue is not too focussed or too narrow, is positive.

We welcome that the chapter makes clear that an individual does not have to lack capacity to meet the criteria, as this has been an area of confusion for some people within certain professional groups.

The focus on supported decision-making and acknowledgement that people's capacity can change over time is also a strength within the chapter.

2a) Chapter 3 seeks to strengthen the guidance around the duty to refer and the duty to cooperate. How well do you think these objectives are fulfilled?

Overall, this chapter strengthens the guidance around the duty to refer and the duty to cooperate.

SASW members welcome that General Practitioners, Scottish Fire and Rescue Services, Scottish Ambulance Service and Scottish Prison Service are included in the list of services that contribute to the support and protection of adults at risk.

The explicit focus on co-production, and effective communication between a range of agencies and professionals is positive. We hope this will encourage more cooperative working, making it clearer that adult support and protection is "everybody's business" and that this will support the skills, knowledge, and expertise that social workers bring to this multi-disciplinary environment.

SASW members particularly welcomed the Scottish Governments intention to revise the adult support and protection guidance on the involvement of General Practitioners in multi-agency protection arrangements. We think their role in this context should be strengthened as their involvement and capacity to engage in Adult Support and Protection processes and to attend meetings are vital to a full multi-disciplinary, universal services approach.

We note that in child protection case conferences, if key professionals are found not to be attending this can be referred to the child protection committees as a cause for concern. We suggest that this approach is trialled in adult protection as it would create more balanced responsibility across the professions, however, we recognise that this is likely to require some further resource.

2b) Secondly, Chapter 3 seeks to significantly strengthen the guidance in relation to expectations regarding information sharing. How well do you think that this objective is fulfilled?

The guidance in relation to expectations regarding information sharing has been significantly strengthened which we welcome. We hope this will mitigate some of the reluctance to share information across agencies. It serves to justify why social workers make the decision to share information in certain cases, particularly when this is questioned by other professionals. However, there remains a question as to how effective this change will be in practice when anxiety about sharing information runs high across many professions.

3a) Chapter 5 seeks to give more detail in relation to the nature of referrals. How well do you think these objectives are fulfilled?

The detail in relation to referrals is robust and clear.

Point 19 states, "if it is determined that the adult does not meet the three-point test, this decision does not preclude considering other relevant legislation, local procedures or alternative services to respond to the individual's needs. This would include practical and emotional support provided by social work, health and independent providers." This inclusion is welcome, it recognises that people can get support from a range of different agencies. People who use services need more early intervention and prevention options. Eligibility thresholds and resource limitations in local authorities mean that social work is not always in a position to deliver this.

The chapter clearly sets out expectations and a general framework and information on process. However, practice differs between authorities.

Point 24 on 16-and-17-year-olds is particularly welcomed. Once a service user reaches the age of 16, there can be pressure for them to be considered an adult. It is positive that explicit reference is made to the fact that child protection frameworks and legislation can still be used. SASW agrees that professional responses must be appropriate for the person, rather than what fits best with the service. The reference to transitional support is positive.

3b) Chapter 5 also seeks to reflect the introduction of welfare concern referrals and IRD processes in some areas of Scotland. How well do you think this objective is fulfilled?

Overall, the objective in this chapter has been fulfilled.

As is stated in the chapter, the use of inter-agency referral discussions is at the discretion of local partnerships, meaning they are not consistent across Scotland. This can cause confusion for practitioners who move between or work across localities. SASW recommends there be a standardised approach to inter-agency referral discussions, and that these should be implemented consistently across the country. This would enable an inter-agency approach to adult support and protection that is currently lacking in some areas. Inter-agency referral discussions create opportunities for different agencies to understand the role of social work in adult support and protection more clearly and facilitate more collaborative working.

The introduction of welfare concern referrals create opportunity for significantly improved practice and better outcomes for people. The welfare concern referral allows for social work to review chronologies and previous contacts, allowing practitioners to track changes, look at patterns and undertake contextual analysis.

4) Chapter 6 seeks to clarify the relationship between an inquiry and an investigation. How well do you think these objectives are fulfilled?

The objectives in Chapter 6 are not fulfilled.

The definition of an inquiry and an investigation is not clear and needs work, particularly given each local authority counts inquiries and investigations differently. Some localities carry out visits under the inquiry stage, whilst others may state that when a visit is carried out and the adult interviewed, that this is an investigation.

"An investigation is therefore part of, and not subsequent to, a Section 4 inquiry". This language is potentially confusing, we recommend that this be reviewed for further clarity.

"The warrant expires 72 hours after it has been granted. Once a warrant has expired, the council officer must not re-enter or remain in that place." This is unclear. This implies that once there is a warrant, an officer can leave and re-enter a property over the course of the 72 hours that it has been granted, with impunity. Once the warrant has been used to gain entry once, it cannot be used again, and cannot be used to enter and re-enter over a 72-hour period. This should be clarified.

5) Chapter 8 is a new chapter, providing more specific guidance in relation to risk assessment, case conferences, protection plans and managing risk. It seeks to offer greater clarity and explanation around these issues. How well do you think these objectives are fulfilled?

The objectives in this chapter are largely fulfilled. It is helpful to see that the use of digital technology and other impacts on working by the pandemic have been taken into consideration, for example, the use of virtual case conferences, and phone interviews for adult at risk concerns.

The reference to amending and reviewing risk assessments, as circumstances change, is welcome and necessary. Additionally, the consideration of the role other agencies play in risk assessment helps to clarify that this is a wider responsibility than that only of social work.

The chapter clearly outlines that case conferences should be as inclusive as possible reinforcing the importance of equality of access. This is positive.

SASW welcomes the section on large scale investigations and the acknowledgement that, despite the Act making no reference to large scale inquiries, they have become increasingly prevalent across the country since the Act's implementation. Such investigations can be a source of anxiety for social work practitioners, but the chapter clearly structures who is involved and provides an observable framework that will support practice.

6) The chapters on Protection Orders have been rationalised. Chapter 11 now covers the common elements of protection orders, and the subsequent chapters (12-14) focus on each type of order separately. The intention is to make this section more user-friendly but still provide sufficient guidance and clarity. How well do you think these objectives are fulfilled?

The chapters read well and covers common elements of protection orders, providing clarity. This is particularly helpful given some localities use certain orders more than others. Outlining the orders in different chapters is a good approach. The chapters clearly spell out the context in which orders can be used, and the relevant agencies and their roles.

The section is indeed more user friendly, and the inclusion of hyperlinks to different sections is useful.

The references to the Vulnerable Witnesses (Scotland) Act 2004 and the duty to liaise with the sheriff are helpful where concerned about people accompanying supported people to hearings.

The section on who has responsibility for an adult's property is helpful and should help to reduce contention in practice.

Point 15, page 79 – it is useful that reference is made to banning orders linking to child protection processes.

## Adult Protection Committee Guidance questions

1 The revised guidance has been reordered to better follow the structure of the Act, and thus be more efficient to use. How well do you think these objectives are fulfilled?

Not Answered

2 The revised guidance strengthens the expectations regarding the duties to cooperate and refer, and regarding information sharing, offering greater clarity and guidance. How well do you think these objectives are fulfilled?

Not Answered

3 The revised guidance has a new section covering the role of Adult Protection Committees (APCs) in giving information or advice and in making proposals to named public bodies. Again this seeks to offer greater clarity of expectations. How well do you think these objectives are fulfilled?

Not Answered

4 The revised guidance has more to say about audit activity, biennial reports, case reviews and Large Scale Investigations. This is intended to offer more information around these issues. How well do you think these objectives are fulfilled?

Not Answered

5 The revised guidance has a new section on governance, covering the relationship between APCs and Chief Officer Groups and other overarching forums. Included in this are matters relating to the appointment of conveners. This seeks to clarify the structures and interactions of each. How well do you think these objectives are fulfilled?

Not Answered

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SASW is not able to comment on this section of the consultation at this time. After engaging with our membership on this section, the general view from frontline workers was that they have very little connection with their APC's and are thus unable to give meaningful feedback.

This leads SASW to ask how well-connected frontline workers feel to, and understand, their adult protection committees locally.

## About you

What is your name?

Name:

Emily Galloway

What is your email address?

Email:

emily.galloway@basw.co.uk

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Scottish Association of Social Work (part of BASW UK)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.: