

Glossary for Adult Support and Protection (ASP) Minimum Dataset

Points of reference

All terms used are with reference to the [Adult Support and Protection \(Scotland\) Act 2007](#) which provides the legislative framework for Adult Support and Protection (ASP). From herein it will be referred to as 'the Act'.

'The Act' does not absolve local authorities of responsibility for other at risk or vulnerable adults who do not meet its own 'adult at risk' three-point criteria. Councils have responsibility to consider intervention under any other legislation, including the general provisions in section 12 of the [Social Work \(Scotland\) Act 1968](#), [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#), [Adults with Incapacity \(Scotland\) Act 2000](#) and [Adult Support and Protection Act 2007](#). (And of course, the range of legislation may be used as appropriate to support 'adults at risk' as defined in 'the Act'.)

The terms in this glossary have been aligned to the revised Adult Support and Protection (Scotland) Act 2007 Code of Practice (July 2022).

ASP Referrals

ASP referrals are inclusive of all cases referred **to the HSCP's Adult Protection Service** where it is known or believed that an adult is at risk, and that further action may be required to protect the person's well-being, property or financial affairs. The referral is determined by the act of the sender (not the receiver).

There is a duty on certain public bodies or office holders who know or believe that a person is an adult at risk of harm and that action may need to be taken to protect them, to make an ASP referral. However, ASP referrals may be received from sources in addition to public bodies, including third sector organisations, members of the public, or the person at risk themselves.

Referrers do not need to have evidence that all elements of the three-point criteria, as referred to in the Act, have been met. Good practice would dictate that even if in doubt the referral should be made. This should be counted as an ASP referral by the HSCP's Adult Protection Service receiving it.

Following **receipt** of an ASP referral, if the council knows or believes that the adult is at risk of harm and that it might need to intervene to protect their wellbeing, property or financial affairs, a S4 inquiry must be undertaken. This assessment should **not** change how an ASP referral is understood or counted, with this determined by the sender.

Adult Support and Protection Plans

An Adult Support and Protection Plan is a set of actions and strategies agreed by relevant agencies (single or multi-agency) and put in place to support and protect 'adults at risk' meeting the three-point criteria. The Plan is designed to eliminate or reduce risk, manage this over time and respond to changing circumstances, overseen through case conference processes. Plans will stay in place until agreed that they are no longer necessary.

Adult Support and Protection Plans should be agreed across all relevant agencies identifying who is responsible for which aspects of the plan, the anticipated timetable, and reporting arrangements.

This should include a date for a review meeting - unless it has been agreed that no further actions are required under the terms of the Act. It is also expected that the adult should be supported to contribute to the fullest possible extent and understand the actions in the said Plan.

An Adult Protection Plan can be initiated at any point of the ASP process depending on need or urgency or local processes, but most commonly at a case conference.

Case conferences

The purpose of case conferences will be defined by local procedures but should include: the sharing of information relating to possible harm; the joint assessment of current and ongoing risk; agreement of a specific and detailed Support and Protection Plan (where required) with timescales for addressing risks and providing services to support and protect the adult. They are sometimes referred to as 'initial' and 'review' case conferences.

Case conferences should be as inclusive of multi-agencies as relevant. There is a presumption that the adult themselves will be in attendance (unless it is considered not to be in their best interests) or the adult freely chooses not to attend with no undue pressure from others.

It will consider actions that may need to be taken under the Adult protection legislation, but may also explore options for protecting people under other legislation - including (but not restricted to) provisions under the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000.

Inquiries and inquiries using investigatory powers

The purpose of an inquiry, with or without use of investigatory powers, is to ascertain whether adults are at risk of harm, and whether the council may need to intervene, provide support, or any other assistance to the adult or any carer. Any use of investigatory powers is triggered through the S4 duty to inquire under the Act.

An inquiry using investigatory powers requires the involvement of a council officer (an individual appointed by a council to perform specific functions under the terms of the Act). It may also require production of a risk assessment if initial inquiries show that further ASP activity is warranted. An inquiry which does *not* use investigatory powers may or may not require the involvement of a council officer, depending on local arrangements and the nature of the tasks.

The collation and consideration of relevant materials, including consideration of previous records relating to the individual and seeking the views of other agencies and professionals, does not necessarily need to be undertaken by a council officer if these inquiries do not include use of investigatory powers. Investigatory powers will be required, and a council officer involved, where there is a need for a visit and direct contact with the adult for interview or medical examination, or for the examination of record (undertaking activity from Sections 7-10 of the Act).

Inquiries may involve a single agency or more, as relevant to the case.

It should be noted that use of inquiries (with or without use of investigatory powers) supports a move away from talking about inquiries and investigations, and is aligned with the revised Code of Practice (July 2022).

Investigatory powers under the Act

ASP provides certain powers to council officers to support investigative activity, covered in S7-10 of the Act. These pertain to:

- Visits
- Interviews
- A medical examination of the person known or believed to be at harm
- Examination of records held by agencies in pursuance of an inquiry.

Other powers provided by the Act include Protection Orders and are covered elsewhere in this glossary.

Large Scale Investigations (LSIs)

A LSI is conducted when it is suspected that more than one adult in a given service may be at risk of harm. This may relate to adult residents in a care home, supported accommodation, an NHS hospital or other facility, or those who receive services in their own home. The risk of harm may be due to another resident, a member of staff, some failing or deficit in the management regime or in the environment of the establishment or service.

Decisions about whether to proceed to an LSI or not, are expected to take place in a multi-agency meeting and for these meetings to be chaired by a senior officer of the council at Head of Service level or above.

There is a duty to "alert and involve" relevant bodies of LSIs as set out in the ASP Code of Practice including the Care Inspectorate. To ensure this, there is a single point of contact available on the Care Inspectorate's website where you can notify them about LSI i) commencement and ii) conclusion of the LSI. Where services are registered with the Care Inspectorate, you should involve them in the investigation itself where appropriate.

Learning Reviews

An Adult Support and Protection Learning Review is a means for public bodies and others with responsibilities relating to the protection of adults at risk of harm to learn lessons from considering the circumstances where an adult at risk has died, been significantly harmed or been placed at risk of significant harm. It is commissioned by the Adult Protection Committee.

Learning Reviews should be seen in the context of a culture of continuous improvement and will focus on learning and reflection around day-to-day practices and the systems within which practice operates.

The current process involving Initial and Significant Case Reviews is anticipated to be replaced with an overarching Learning Review process, from Spring 2022.

Protection Orders

The Act allows for application to a sheriff for a Protection Order. Applications must be made by the council, save for banning orders. Here, the application may also be made by or on behalf of the adult whose well-being or property would be safeguarded by the order, or any other person who is entitled to occupy the place concerned.

Protection Orders may be applied for at any time. Applications can be made for another Protection Order, but not until the expiry date of the one in place.

Assessment Orders

An order granted by a sheriff to help the council decide whether the person is an adult at risk and, if so, whether it needs to do anything to protect the person from harm. These may be to carry out an interview or medical examination of a person and are valid for 7 days.

Removal Orders

An order granted by a sheriff to remove an adult at risk to a specified place to assess and protect them, effective for a maximum of 7 days after the day on which the person is removed, which must take place within 72 hours of the order being granted.

Banning/Temporary Banning Orders

An order granted by a sheriff to ban the person causing, or likely to cause, the harm from being in a specified place. It may have other conditions attached to it, and may last for a period of time not exceeding 6 months. The subject of the order may be a child or adult. Serious harm must be evidenced.

In case of urgency, a council can apply to a justice of the peace of the commission area, as opposed to a sheriff, with different arrangements in place for this.

Three-point criteria

An 'adult at risk' under [Section 3\(1\) of the Act](#) is someone who is 16 years and over who **meets all three** of the following criteria. (Sometimes referred to as the three-point test). They have been assessed as being:

1. unable to safeguard their own well-being, property, rights or other interests;
2. at risk of harm; and
3. that 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.

Application of the three-point criteria should not be used as, an eligibility test for access to services, and does not absolve authorities of responsibility to consider intervention under any other legislation, including the general provisions in section 12 of the Social Work (Scotland) Act 1968.

Application of the three-point criteria in a changing context

For the majority of adults, application of the three-point criteria will be relatively straightforward. However, this will not always be the case. Further clarity and sense-making is provided in the 'Draft Code of Practice, unpublished.'

'Unable to safeguard'

Unable should be understood to mean ‘lacking the skills, means or opportunity to do something.’ This should also be understood in a changing context **informed by a more trauma-informed approach**, and **considering undue pressure** – which may render a person ‘unable’ to make decisions to protect themselves. **Capacity is not, and never should be, a consideration in application of the three-point criteria:** an inability to safeguard oneself is not the same as lacking mental capacity.

‘Mental infirmity’

The term **‘mental infirmity’** is no longer favoured when describing disability, and having a disability does not necessarily mean that you are unable to safeguard yourself. ‘Infirmity’ should therefore be understood as a ‘weakness (or want of strength), inability or lack of power to do something.’

‘Mental disorders’

Hoarding is now recognised as a disorder in its own right.

Widening relevance

ASP duties under the Act, are expected to have direct relevance to a broader range of people than originally anticipated including:

- some people who have addiction problems
- people who are homeless
- those at risk of their human rights being infringed, including through inappropriate arrangements for their care.

Links with Child Protection and Prison Service

Particular attention should also be paid to the needs and risks experienced by young people in transition from youth to adulthood, who are more vulnerable to harm than others, perhaps due to Adverse Childhood Experiences (ACES). Also, to identifying them at the earliest possible opportunity, and any children or young people that they are the parents or guardians of.

The Prison Service will also be aware of many adults who may be at risk of harm both as new and existing inmates and those being readied for release. They and ASP services should be alert to the need for links and local protocols to support ‘adults at risk.’