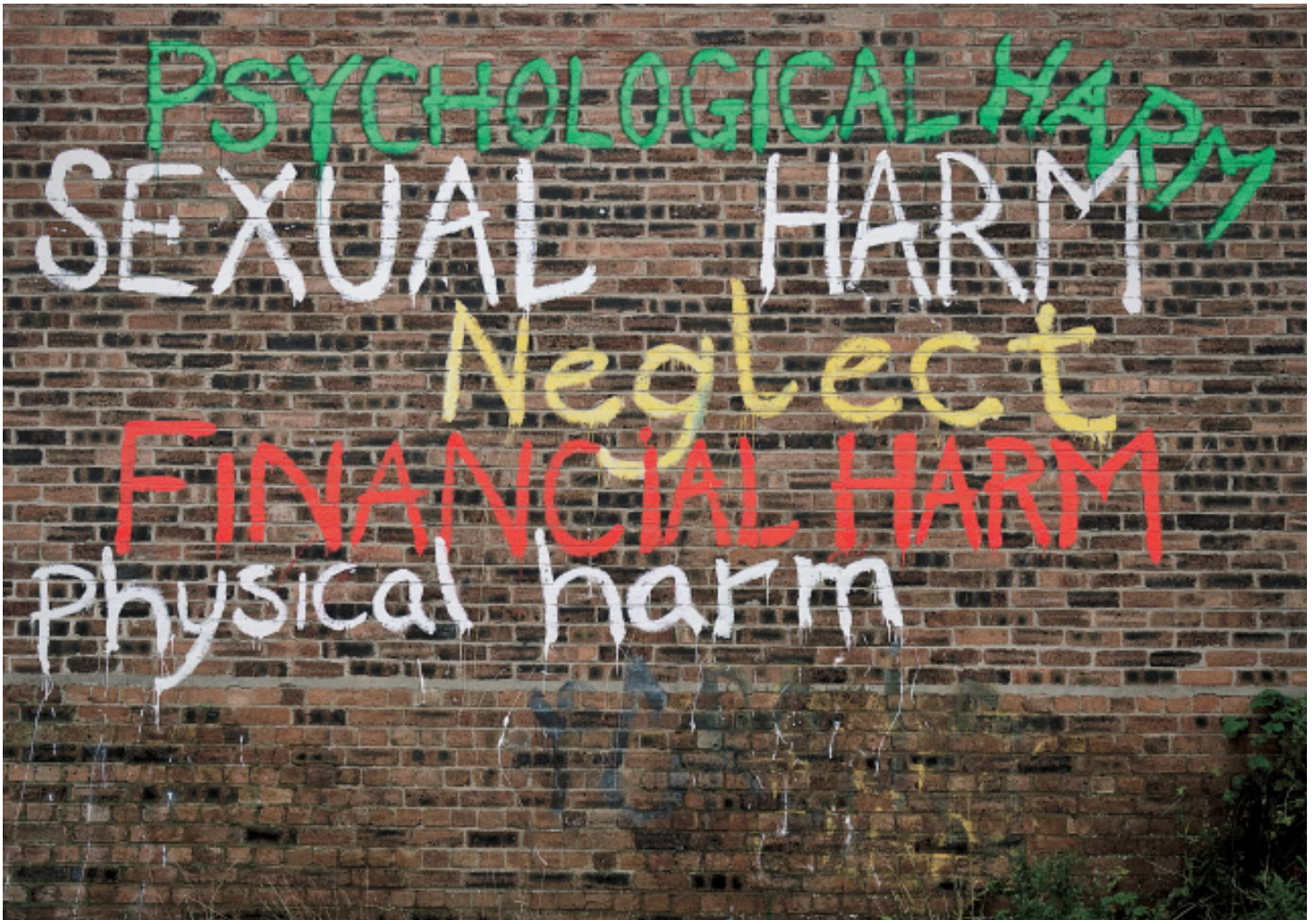


Adult Support & Protection in Highland

Taic & Dìon do dh'Inbheach
sa Ghàidhealtachd



Inter-agency Procedures for the Implementation of the
Adult Support and Protection (Scotland) Act 2007

Modhan Eadar-bhuidhneach airson Achd Taic agus
Dìon nan Inbheach (Alba) 2007 a Bhuileachadh

MARCH 2010



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March 2010
Màrt 2010

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Preface

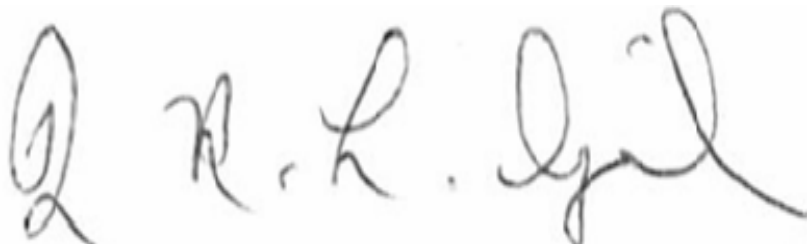
Facal-toisich

Working as part of the “Safer Highland” partnership structure, the Highland Adult Support and Protection Committee has an important role in ensuring that robust arrangements are in place to protect adults at risk of harm and from the risk of harm.

These inter-agency procedures have been developed alongside practitioners to establish the common framework for the implementation of the Adult Support and Protection (Scotland) Act 2007 in Highland. They form one of the core pillars by which services that are provided will meet the support and protection needs of adults at risk of harm. In order to ensure that they remain current and fit for purpose, they will be regularly reviewed and updated.

Alongside these procedures are a number of other initiatives which are being progressed. These include raising awareness amongst the public about the types of harm that people may be exposed to and how they can be supported to highlight any circumstances where they believe that someone they know might be at risk of harm. An extensive training programme has been developed to support the implementation of these procedures. This is key to ensuring that staff in the partner agencies and in the independent sector are suitably equipped to use these procedures competently and confidently.

The effectiveness of all of these arrangements will be answered in time by adults at risk of harm and the people who care for them. As a result of all our efforts, including implementation of these procedures, our aim must be to ensure that they feel safer and better protected.

A handwritten signature in black ink, appearing to read 'I. Gibson', written in a cursive style.

Ian Gibson
Independent Chair
Highland Adult Support and Protection Committee

March 2010

Part One - Inter-agency procedures
Pàirt a h-Aon - Modhan eadar-bhuidhneach

1. Introduction

Ro-ràdh

- 1.1 The Highland Inter-agency procedures have been developed by the partnership of agencies that have primary responsibility for keeping adults safe in the Highlands – The Highland Council, NHS Highland and Northern Constabulary.
- 1.2 They are designed to provide an effective framework to support consistent intervention and practice across the agencies and are supported by an extensive programme of joint training.
- 1.3 The procedures ensure the effective implementation of the **Adult Support and Protection (Scotland) Act 2007**¹, which is referred to throughout this document as “the Act.” They have also been informed by the **Adult Support and Protection (Scotland) 2007: Code of Practice**² and the multi-agency **Protecting Vulnerable Adults: Good Practice Guidance and Procedures (Revised 2005)**, which they now replace. Part Three of this document contains examples of forms that should be routinely used in the implementation of these procedures.
- 1.4 The Highland Adult Support and Protection Committee will regularly review and update these procedures to ensure that they remain current and fit for purpose.

2. Definitions

Mineachaidhean

- 2.1 A general glossary of words and terms can be found at Appendix A.
- 2.2 In these inter-agency procedures, **adult** means any person aged 16 years old or over, who is not subject to childcare legislation. In Highland, separate procedures exist for responding to young people aged between 16 and 18 years who are believed to be at risk of harm.³
- 2.3 Section 3 of the Act defines an **adult at risk of harm** as an adult who:
 - is unable to safeguard his/her own well being, property rights or other interests; **and**
 - is at risk of harm; **and**
 - because affected by disability, mental disorder, illness or physical or mental infirmity is more vulnerable to being harmed than an adult who is not so affected.
- 2.4 **It is important to emphasise that all three of the conditions stated above must be met in order for an adult to be defined as an adult at risk of harm.**

¹ [Adult Support and Protection \(Scotland\) Act 2007](#)

² [Adult Support and Protection \(Scotland\) Act 2007: Code of Practice](#)

³ Child Protection Inter-Agency Guidelines (2009)

http://www.protectinghighlandchildren.org/htm/New_2009_Guidance_link_page.htm

- 2.5 However, it is important to note that vulnerability and risk are not condition specific. In other words, an adult may be affected by disability but still able to safeguard their well being.
- 2.6 In terms of the Act, an adult is at risk of harm if:
- another person's conduct is causing (or is likely to cause) the adult to be harmed; **or**
 - the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.
- 2.7 The law in relation to adults (i.e. anyone over the age of 16) makes a distinction between those who are **capax** (capable of managing their affairs) and those who are not. The assumption in law is that all adults have capacity until or unless they are recognised, in law, as being incapable. Where an adult can express their free will, social work staff cannot make or impose decisions regarding how the person should behave. Any investigation of suspected harm must consider as early as possible, whether or not the adult has capacity.

3. Values Luachan

- 3.1 The Highland Adult Support and Protection Committee believes that every adult is entitled to:
- live in a home-like atmosphere without fear of violence or harassment;
 - make informed choices about intimate relationships without being exposed to exploitation or sexual abuse;
 - have his/her money and property treated with respect;
 - be empowered (through support if necessary) to make choices about his/her life; and
 - be given information about keeping safe and exercising his/her rights as a citizen.

4. Key principles Prionnsapalan bunaiteach

- 4.1 These inter-agency procedures have been developed based on a number of key, underlying principles:
- every adult has a right to be protected from all forms of abuse, neglect and exploitation;
 - every adult must be enabled to express his/her wishes and to make decisions to the best of his/her ability, whilst recognising that self-determination may involve an element of risk;
 - where it is found to be necessary to override the wishes of the adult or to make decisions on his/her behalf for their own safety (or the safety of others), this must be explained to the individual in a way that can be clearly understood;

- any action, which is not in accordance with the wishes of an individual, but is deemed by legislation to be a requirement, should always be proportionate and be the least disruptive to the person's life; and
- effective partnership working across the statutory, voluntary and independent sectors is a prerequisite to ensuring timely and appropriate responses to situations where adults are at risk of harm.

5. Responding to allegations and concerns about someone's safety

A' freagairt ri cur às leth agus draghan mu shàbhailteachd neach

- 5.1 In terms of intervening in the life of an adult, a number of overarching principles run through the Act:
- 5.2 A public body or office holder must be satisfied that any intervention:
- will provide a benefit to the adult, which could not reasonably be provided without intervening in the adult's affairs; **and**
 - is the least restrictive to the adult's freedom within the range of available options.
- 5.3 In addition, the public body or office holder must also have regard to the following:
- honouring the adult's ascertainable wishes and feelings – past and present;
 - listening to and acknowledging the views of the adult's nearest relative, primary carer, guardian or attorney and any other person who has an interest in the adult's wellbeing or property;
 - the importance of the adult participating as fully as possible in the process of intervention and providing the adult with such information and support as is necessary to enable the adult to participate;
 - the importance of the adult not being, without justification, treated less favourably than the way in which a person who is not an adult at risk of harm would be treated in a comparable situation;
 - the adult's abilities, background and characteristics;
 - recognising that any self-determination can involve risk and it is the agencies' responsibility to assist in the management of and minimisation of risk; and
 - ensuring the safety of the adult is achieved by integrating strategies, policies and services relevant to harm.

- 5.4 In Highland, we are committed to working together to ensure that any intervention is:

Prompt - taking place at a pace which ensures the immediate and ongoing health and safety of the adult at risk.

Sensitive - to the needs of the adult at risk of harm, his/her family or carers, and staff.

Effective - in providing solutions and services which are as simple and practical as possible and, as far as practicable, prevent the risk of harm recurring.

Balanced and proportionate - with all agencies exercising their duties and responsibilities to ensure that all intervention is justified and with all the reasons for intervention being fully recorded.

Aware - and does not discriminate against a person because of their religious or cultural beliefs, age, gender, race, sexual orientation, or any other grounds.

6. Identifying harm and signs of harm

Ag aithneachadh cron is comharran croin

6.1 Indicators of harm

Essential to the implementation of the Act is the assessment of actual harm and the risk of harm. There are a number of **indicators of harm** that are recognised as being reliable in highlighting signs that an adult at risk has been exposed to harmful behaviour. These include:

6.2 Physical Harm and its Signs

6.2.1 Physical harm can include punching, kicking, biting, shaking, pushing, slapping, tying down, forcing food or medication.

Physical Signs of harm might include:

- bruising,
- bite marks,
- burns and scalds,
- scars – particularly unusually shaped ones; large numbers of different ages, and
- fractures – especially if there is also pain, swelling, discolouration.

6.3 Neglect and its Signs

6.3.1 Neglect can include denying someone of food or drink, heat or shelter, privacy or dignity, medical or physical care, and access to a doctor or other services. It can also mean self-neglect. Self-harm, as defined in the Act, will often include self-neglect.

Signs of neglect may include:

- lack of appropriate food, clothing or shelter;
- circulation and skin disorders;
- lack of protection from or exposure to dangers; and
- failure to seek or delay in seeking appropriate medical attention.

6.4 Emotional and Psychological Harm and their Signs

6.4.1 Emotional and Psychological Harm can include being humiliated, intimidated, being shouted at, threatened, bullied or constantly criticised. It can also mean being controlled by someone, ignored or left alone.

Emotional and Psychological Signs might include:

- the behaviour and/or history of the carer (paid or unpaid);
- pressure exerted by family or professional to have someone committed to care;
- significant weight change, loss of appetite or over-eating
- loss of confidence and self-esteem;
- submissiveness or dependence in contrast with known capacity;
- demonstration of fear of another person, including fear of a carer or professional person;
- sudden changes in behaviour in the presence of certain people; and
- prevented from having appropriate opportunities for socialisation.

6.5 Financial and Material Harm and their Signs

6.5.1 Financial and Material Harm can include feeling under pressure to hand over money or possessions, exploitation of property or welfare benefits or stopping someone accessing their money or possessions, stealing, cheating or fraud. It might also be being under pressure to write a will.

Financial and Material Signs might include:

- misuse of a person's money or resources, without informed consent;
- unexplained or sudden withdrawals from accounts;
- disparity between known income and capital with unnecessary poor living conditions – especially where this has happened recently;
- personal possessions or valuables being damaged or going missing without satisfactory explanation; and
- any unusual interest taken by relative, friend, neighbour or others in the person's financial assets, where there is no real concern shown in other matters.

6.6 Sexual harm and its signs

6.6.1 Sexual harm can include any sexual activity that a person does not feel comfortable with, want or understand.

Signs of sexual harm might include:

- an aversion to being touched;
- a tendency to withdraw from contact with others and a tendency to spend time in isolation;
- wetting or soiling, day or night, especially if new;
- an unexplained pregnancy;
- unexplained sexually transmitted diseases;

- sleep disturbances or nightmares;
- injuries and bruising in the genital area; and
- excessive washing.

6.7 It is important to emphasise that the list of signs as set out above is not an exhaustive list.

6.8 An individual's experience of harm can vary widely. It is important to look beyond a single incident, as there may be underlying dynamics and patterns of harm.

6.9 It is also necessary for us to be aware that sometimes a random attack by a stranger may take place on an adult who is defined as being at risk. This is an assault and is a criminal matter that should be reported to the police. However, where it is possible that the violence may be part of a pattern of victimisation in a community or neighbourhood, these inter-agency procedures may apply.

7. Undertaking an assessment **A' gabhail measadh os làimh**

7.1 Whenever there are concerns or allegations relating to an adult at risk of harm, these inter-agency procedures should always be followed. They bring together a number of processes which may require being co-ordinated and managed in parallel:

- investigation of the referral, including assessment and any immediate actions that need to be taken to protect the adult at risk of harm;
- a potential Police investigation of any criminal matter;
- assessment action plans and care planning for the adult at risk of harm;
- any resultant action relating to criminal proceedings;
- any necessary action required in relation to securing a Protection Order;
- any potential investigation of staff conduct, disciplinary processes and contact with employee registration bodies; and
- consideration of any implications relating to care standards, registration, inspection, contract monitoring and reviews.

7.2 It should be noted that any enquiries into a suspected or alleged criminal offence are likely to be conducted by or led by the Police. However, the Act clearly indicates the local authority's responsibility to investigate any allegation and the following will apply in all cases:

- any concern or allegation will be reported to the Council's Social Work Service;
- the factual details relating to the adult at risk of harm and the alleged harm will be recorded fully and accurately;
- there will be joint discussion and decision making, assessment and care planning, to support and /or protect the adult at risk and/or action to be taken concerning any alleged perpetrator;
- action plans for the support and protection of the adult at risk of harm will be agreed and implemented; and

- the appropriateness and effectiveness of the individual support and protection plans will be regularly monitored and reviewed.

7.3 The actions set out above broadly align to a three-stage process:

- Stage 1 – responding to the concern or allegation.
- Stage 2 – intervention to ensure that the adult is protected.
- Stage 3 – review.

This process is summarised in the flowchart that follows at Figure 1.

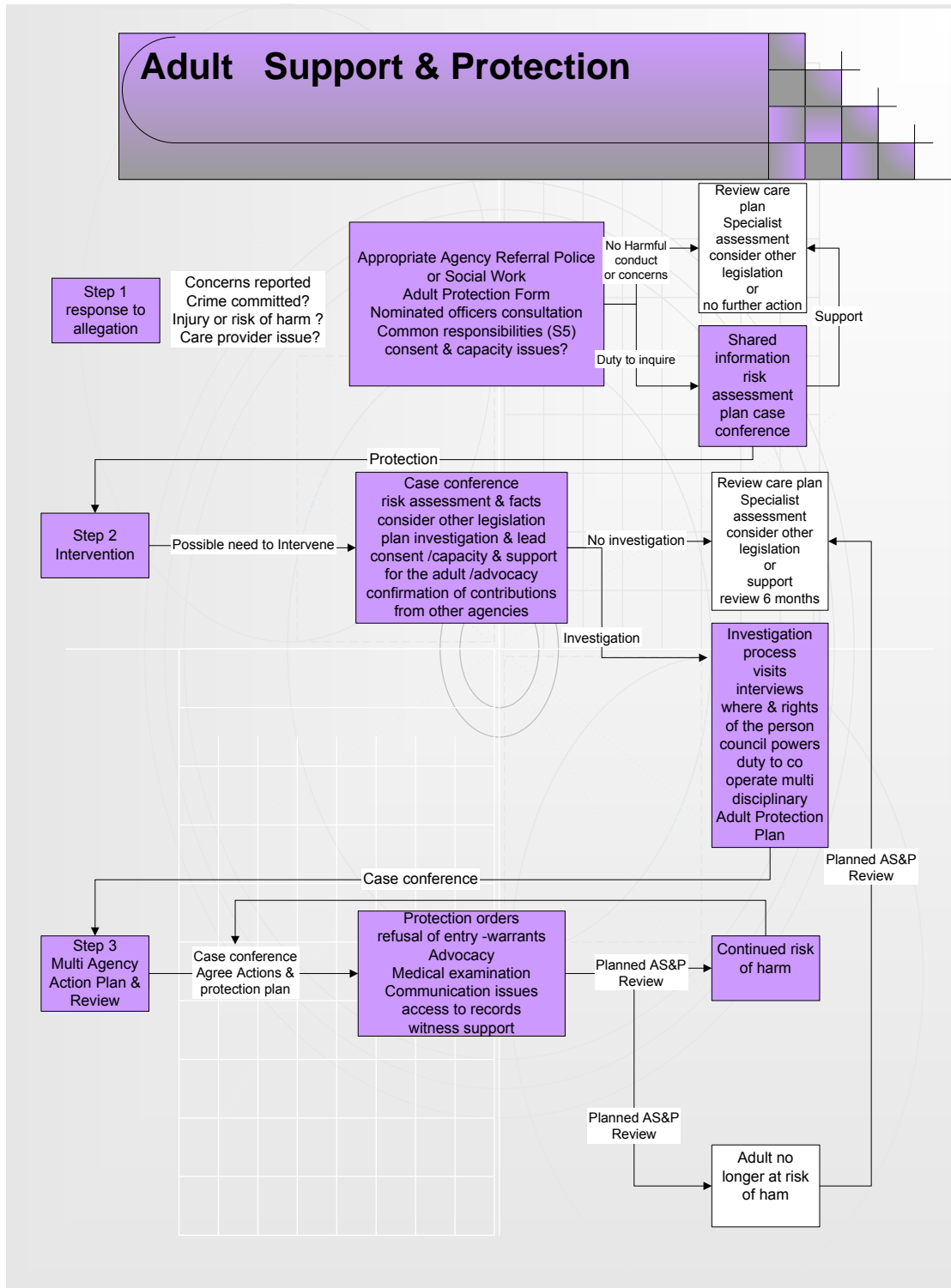


Figure 1

8. Dealing with concerns and allegations that relate to young people aged 16-18 years.

A' dèiligeadh ri draghan is cur às leth a' buntainn ri daoine òga aois 16-18

8.1 For young people aged between 16-18 years of age, it may be the case that the Highland Child Protection Inter-agency Guidelines⁴ would apply wherever concerns or allegations are being made. It is therefore important to ensure that there is a consistency of approach and ease of transition between child protection and adult support and protection processes, especially for young people who have a disability. The following processes will apply depending on the status of the young person:

8.1.1 Young People who are not known or not subject to child protection measures.

The first scenario involves young people aged between 16-18 years of age, who are not already known or who are known, but who are not already subject to child protection measures e.g. not on the Child Protection Register. In such cases:

- at the point of referral, the relevant Area Community Care Manager and the Area Children's Services Manager, in consultation with colleagues in NHS Highland and the Northern Constabulary, will take a view and agree whether the investigation will be undertaken under the Adult Support and Protection Procedures or the Child Protection Guidelines; and
- whichever procedures or guidelines are followed, initiation will also be flagged in the other system.

8.1.2 Young people who are on the Child Protection Register on their 16th Birthday

The second scenario involves young people aged between 16-18 years of age who are on the Child Protection Register at the time of their 16th birthday. In such cases:

- at the next Child Protection Plan Meeting, where it is determined that the young person should continue to be registered on the Child Protection Register, consideration should be given to which processes (i.e. child protection or adult support and protection) would be the most appropriate to manage the case;
- if there is consensus that the adult protection processes should apply, responsibility can only be transferred if formal agreement of the Area Children's Services Manager and the Area Community Care Manager can be confirmed at the Child Protection Plan Meeting or the subsequent Core Group Meeting. These meetings also have

⁴ Child Protection Inter-Agency Guidelines (2009)
http://www.protectinghighlandchildren.org/htm/New_2009_Guidance_link_page.htm

responsibility for agreeing and documenting the necessary process transfer arrangements; and

- whichever procedures or guidelines are followed, initiation will also be flagged in the other system.

9. Adult protection investigations – roles and responsibilities of individuals and agencies

Sgrùdaidhean dìon inbheach - dreuchdan is dleastanasan dhaoine fa leth is bhuidhnean

9.1 Once an initial concern or allegation has been notified and details taken, the matter should then be raised by the worker receiving the referral with his/her line manager and the Nominated Officer within the agency must be contacted.

9.2 Details of the role of Nominated Officers are outlined below:

9.2.1 The role of the Nominated Officer

Each agency will have a Nominated Officer:

- Manager for all Community Care Teams (i.e. Young Adults Teams, Older Peoples Teams and Community Mental Health Teams) and the Out of Hours Emergency Team Co-ordinators;
- for NHS Highland, it is the Locality General Managers of The Highland Council Social Work Service, this is the Team Community Health Partnerships (CHPs), the Duty Manager at Raigmore Hospital and the Manager at New Craigs Hospital; and
- for Northern Constabulary, it is the Public Protection Inspector.

9.2.2 Nominated Officer (general responsibilities)

Irrespective of agency, the general responsibilities of the Nominated Officer are to:

- ensure that the Highland Adult Support and Protection Inter-agency Procedures and documentation are consistently applied within their own area and agency;
- act as a professional adviser for staff within their own agency on matters relating to the protection of adults at risk of harm;
- ensure that agency training needs are identified and responded to;
- provide and/or arrange support for staff, carers and others as required;
- contribute to the ongoing review of the procedures in conjunction with the Highland Adult Support and Protection Committee.

9.2.3 In respect of specific concerns and allegations, the responsibilities of the Nominated Officer are:

- to receive and record information from staff within their agency and other referral sources concerning adults at risk of harm; and

- to consult with the Nominated Officers of the partner agencies to agree jointly:
 - a) that the adult meets the “three point test”;
 - b) any concerns referred to them and how they will be progressed;
 - c) to agree roles and responsibilities in any proposed investigation; and
 - d) the position of any employee who is the subject of an allegation.

9.2.4 Nominated Officer for Social Work

In addition to the general responsibilities detailed above, the Nominated Officer for Social Work has enhanced responsibilities:

- to co-ordinate and chair case conferences and to ensure the standardised use of adult support and protection documentation with an accurate record of actions taken, decisions made and agreed outcomes at each stage of the process;
- to ensure regular communications between all key staff and involved parties; and
- to ensure that all documentation is circulated.

9.2.5 The role of the Council Officer

The Act refers to the person who is appointed to be the investigating officer as the **Council Officer**. In Highland, the Council Officer is appointed by the Nominated Officer. This person is given specific duties under the Act and is an employee of a local authority. In Highland, it has been agreed that a Council Officer can be a Social Worker, Social Work Occupational Therapist, and, where employed by The Highland Council, a Nurse.

The Council Officer is therefore an employee of The Highland Council who is:

- currently registered with the Scottish Social Services Council as a Social Worker on the Social Worker Register maintained under section 44(10) of the Regulation of Care (Scotland) Act 2001; **or**
- an Occupational Therapist currently registered with the Health Professions Council⁵; **or**
- a nurses who is currently registered with the Nursing and Midwifery Council⁶; **and**
- who has at least 12 months post-qualifying experience in identifying, assessing and managing adults at risk.

⁵ The Health Professions Council holds a UK-wide register of Occupational Therapists, Physiotherapists, Paramedics, Speech and Language Therapists and other health staff www.hpc-uk.org

⁶ Nursing and Midwifery Council holds a UK-wide register of all nurses and midwives www.nmc-uk.org

10. Duties and permissions of the Council Officer under the act

Dleastanasan is ceadan Oifigear na Comhairle fon achd

While the Council Officer has a range of responsibilities under the Act, it should be recognised that other professional staff may have an involvement in adult support and protection work. This might include, for example, a Community Psychiatric Nurse employed by NHS Highland.

10.1 Council's duty to make enquiries

Section 4 of the Act states that: "A council must make inquiries about a person's well-being, property or financial affairs if it knows or believes:

- (a) that the person is an adult at risk, and
- (b) that it might need to intervene (by performing functions under this Part or otherwise) in order to protect the person's well-being, property or financial affairs."

Any action subsequently falls to the Council Officer, under the direction of the Nominated Officer.

10.2 Visits

Section 7 of the Act states that:

- (1) A council officer may enter any place for the purpose of enabling or assisting a council conducting inquiries under section 4 to decide whether it needs to do anything (by performing functions under this Part or otherwise) in order to protect an adult at risk from harm.
- (2) A right to enter any place under subsection (1) includes a right to enter any adjacent place for the same purpose.

In respect of (2) above, the definition of "place" is wide-ranging. Section 36(1) says that such visits should be at a "reasonable time" but it is recognised that the urgency of the situation might necessitate a visit at times that, in other circumstances, might be judged "unreasonable". The Council Officer must provide proof of his identity, authorisation to visit, and explain the purpose of the visit. Where access to the place is refused, it might be necessary to consider, through the Nominated Officers, an application for a Warrant for Entry. The Council Officer may be accompanied on the visit by another person(s), for example, a medical professional, a Mental Health Officer, or someone with the requisite skills to communicate with the adult. The appropriateness of the Council Officer being accompanied, and by whom, will be considered as part of the intervention plan agreed by the Nominated Officers.

10.3 Interviews

Section 8 of the Act states that:

- (1) A council officer, and any person accompanying the officer, may interview, in private, any adult found in a place being visited under section 7.
- (2) An adult interviewed under this section is not required to answer any question (and the adult must be informed of that fact before the interview starts).
- (3) The power given by subsection (1) applies regardless of whether the sheriff has granted an assessment order authorising the council officer to take the person to another place to allow an interview to be conducted.

Section 8 of the Act also allows for the interviewing of any other adult found in the place being visited.

10.4 Medical examinations

Section 9 of the Act states that:

- (1) Where:
 - (a) a council officer finds a person whom the officer knows or believes to be an adult at risk in a place being visited under section 7, and
 - (b) the officer, or any person accompanying the officer, is a health professional,that health professional may conduct a private medical examination of the person.
- (2) A person must be informed of the right to refuse to be examined before a medical examination is carried out (whether under this section or in pursuance of an assessment order).
- (3) The power given by subsection (1) applies regardless of whether the sheriff has granted an assessment order authorising the council officer to take the person to another place to allow a medical examination to be conducted.

If the adult consents, then s/he may only be medically examined by a medical practitioner (defined as a doctor, nurse or midwife). The medical examination has a potential number of purposes, including establishing if harm has occurred, and as a means to providing any medical care the adult might need.

The local Nominated Officers will jointly determine how any referral will be dealt with.

11 Consent

Aonta

- 11.1 The principle of consent is fundamental to the successful implementation of the Act.

Where it is not possible to obtain the consent of the adult to either an interview or a medical examination, because they lack the mental capacity or have difficulty communicating, it might be necessary to seek the consent of a Welfare Guardian or Attorney. Where there is no such person, or they do not have the requisite powers, consideration may be given as to the use of the provisions of the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003. Further information can be found both in Section 16 'Legal Provisions of the Adult Support and Protection (Scotland) Act 2007 and in Part Two 'Adult Support and Protection - Legal Context.'

12. Initial referrals, initial assessment discussions, adult protection case conferences and multi-agency support and protection plans

Tar-churan tùsail, deasbaireachdan measaidh tùsail, co-labhairtean chùisean dìon inbheach agus planaichean taic is dìon ioma-bhuidneach

12.1 Initial referral

- 12.1.1 A referral regarding a concern or allegation about an adult who may be at risk of harm can be received at a social work office by telephone, email, letter or personal call from a variety of sources including health professionals, the Police, housing agencies, independent sector workers, paid and unpaid carers, family members, friends or from the adult him/herself.
- 12.1.2 Any professional from outwith the Social Work Service who has a concern about an adult who may be at risk of harm will contact the local Social Work Older Adults, Younger Adults or Community Mental Health Team to report a concern. Referrals out of normal working hours will be made to the Social Work Emergency out of Hours Team. Regularly updated contact details can be found in Appendix B to this document.
- 12.1.3 The member of Social Work staff taking the initial referral should ensure that they obtain as much information as possible including any known or previous history of risk of harm, the views of the adult and any consent and/or disclosure issues known about at this stage. The referral must always be recorded as 'adult concern' on CareFirst and the relevant Nominated Officer for Social Work should be consulted as soon as possible. A suggested checklist has been drawn up to assist staff who are receiving initial referrals:

- name and address of adult being referred;
- date of birth;
- living situation;
- name and addresses of any person with an interest e.g. family, carer;
- current whereabouts of the adult;
- General Practitioner details;
- other health professional details;
- details of adult's physical health;
- information, if applicable, on learning disability, mental health or communications difficulties;
- whether the adult is subject to any proxy decision-making powers under the Adults with Incapacity Act or subject to any order under the Mental Health Act;
- identify any witnesses and whether they can be contacted;
- clarity as to whether or not the referrer is willing to be interviewed, if required, during the course of any possible investigation.

12.1.4 The procedures should be followed even when referrers refuse to give their name or if the referral has come from an anonymous phone call or letter. Where referrers do give their name, but request that their identify is not disclosed, they can be advised that any information given will be treated with discretion and that their identify will not be revealed unless the protection of the welfare of the adult or any court proceedings arising requires this.

12.1.5 Please note the importance of Section 5(3) of the Act which states the following:

'the public body or office holder must report the facts and circumstances of the case to the council where they know or believe that an adult is at risk and that action needs to be taken to protect that person'.

12.2 Initial assessment discussion

12.2.1 Following receipt of a referral, the Nominated Officer for Social Work must contact the relevant Nominated Officers in the NHS and the Police to determine that the referral meets Adult Support and Protection criteria, what action, if any, needs to be taken and which agency will lead. The Nominated Officer for Social Work is responsible for ensuring that information and all decisions are recorded on CareFirst.

12.2.2 It should be noted at this point that the initial discussion may confirm that there is no protection issue and therefore no need for the matter to be progressed any further using the Inter-agency Procedures. However, the discussion may point to the adult having support needs and the Nominated Officers would decide on the best way for these to be addressed. A referral to the local social work team for an assessment may be the outcome, for example.

12.2.3 An initial assessment meeting is not a requirement at this stage unless the Nominated Officers agree that it is necessary to hold one and that in doing so, there is no delay in taking any agreed, immediate actions to secure the adult's safety. A meeting may be indicated if:

- there are urgent concerns;
- the case is complex;
- there are serious risks;
- several agencies are involved; and
- sharing of information is necessary and a meeting will facilitate this.

12.2.4 The purpose of the initial assessment discussion or meeting is to:

- determine if the referral meets the Adult Support and Protection criteria, including the adult meeting the "three-point test" criteria for an adult at risk of harm;
- discuss the initial referral and subsequent investigation
- discuss and agree any possible support and protection measures in respect of the risk of harm;
- discuss the strengths and weaknesses of current support arrangements;
- discuss any advocacy issues;
- exchange information held by each of the agencies pertinent to the risk of harm;
- determine the degree of risk and the likelihood of re-occurrence;
- discuss whether any protection measures including other legislation, and a protection plan require to be sought or discuss measures which were sought at the investigation stage;
- determine whether no further action is required to be taken under Adult Support and Protection processes and identify if any support is to be provided for the adult; and
- arrange an Adult Protection Case Conference if it is agreed that one is required.

12.2.5 Whenever an initial assessment meeting is held, the following must be adhered to:

- the chair of the initial meeting should normally chair all future meetings regarding the case;
- the chair should not also be the minute-taker for the meeting;
- Social Work Business Support staff will provide assistance to the Nominated Officer for Social Work with regard to the use of standard documentation, arranging venues, issuing notifications and invitations and minute-taking; and
- the Nominated Officer for Social Work is responsible for ensuring that information is properly recorded on CareFirst.

12.2.6 In cases arising outside of normal working hours, it might be that only the Police and Social Work (Out of Hours Service Co-ordinator) Nominated Officers are available to determine any action to be taken

at that time. The Council Officer will be appointed in accordance with these decisions.

12.3 Adult protection case conference

12.3.1 Arranging the case conference

The adult protection case conference will be called by the Nominated Officer for Social Work within 10 working days of the initial assessment discussion. The purpose of the case conference is to formulate the initial support plan.

The adult at risk of harm must be consulted about who they would like to attend this meeting. It may also be appropriate to consult the adult's carer or advocate if the wishes of the adult cannot be ascertained.

The adult at risk should normally be invited to the case conference along with his/her advocate, if there is one, and relatives and/or carer(s). If the harm is alleged to involve the relative or carer, then consideration will need to be given as to the appropriateness of inviting them to the case conference. The facts around the incident, the current stage of any criminal investigation and the relationship between the alleged perpetrator and the victim must be considered when deciding to invite or refuse the carer to attend the meeting. The chair may exclude individuals from attending the meeting as long as there are substantive grounds for doing so, for example where it is believed that the person would undermine the process or if serious conflict is likely to emerge.

Consideration may be given not to invite the adult at risk of harm when this might be considered to be detrimental to their health, or if they lack capacity and might have difficulty in understanding proceedings.

The following people, in no particular order, should normally be invited to the case conference:

- the adult at risk of harm;
- the advocate of the adult at risk of harm, where there is one;
- the person's relative or relatives;
- the adult's carer or carers, paid or unpaid;
- the Social Worker;
- representative(s) of Northern Constabulary;
- representative(s) of NHS Highland;
- the person's GP;
- member of Highland Council Legal Services staff (where legal action such as a protection order is being considered); and
- other agencies and individuals who are considered to have a relevant input e.g. residential and day care staff.

The case conference should only go ahead where representatives of Social Work, NHS Highland and Northern Constabulary are able to be present.

12.3.2 At the case conference:

At the case conference, the following actions should be taken:

- share information and assess risk;
- formulate a multi-agency support and protection plan to deal with any assessed risks, if not already formulated;
- make arrangements for implementing and reviewing the multi-agency support and protection plan;
- clarify the roles and responsibilities of the various professionals involved in implementing the multi-agency support and protection plan;
- agree or review the multi-agency activities to date;
- nominate a Council Officer to provide the focal point for liaison and communication and to ensure that the multi-agency support and protection plan is followed by those who have been allocated specific responsibilities and tasks in the action plan;
- specify the responsibilities and roles for each named agency worker;
- indicate if advocacy, legal or other professional representation is required;
- confirm whether any other professional body needs to be represented or informed e.g. the Mental Welfare Commission, NHS QIS or the Care Commission;
- consider if the individual should make a claim for criminal injuries compensation;
- consider if the adult at risk has a guardian or attorney and whether this is a suitable person to represent and support the adult during this process;
- set out the risk assessment that has been undertaken and the multi-agency support and protection plan based on that risk assessment. This may include applying for a protection order, or action under any other appropriate legislation;
- determine the arrangements for monitoring, supporting and counselling;
- determine whether any further action required;
- detail a contingency plan in the event of the breakdown of the care support or protection arrangements, or if there is any other significant change, in the adult's circumstances;
- ensure that there are arrangements in place that continue to monitor that the adult's living arrangements remain appropriate to their needs and safety;
- agree timescales for further follow-up meetings to review the multi-agency support and protection plan, the first of which must be within six months of the first case conference taking place
- circulate the minute from the case conference within 5 days to the adult and those in attendance;
- forward the outcomes of the case conference to the Area Community Care Manager;
- complete and send a monitoring report to the Development Officer (Adult Protection) thus informing the provision of a six-monthly report to the Highland Adult Support and Protection Committee;

- ensure the underpinning principles of the Act are adhered to and the code of practice applied; and
- where it has not been possible to finalise plans during the initial case conference, it may be necessary to arrange a further case conference within a specified time scale.

12.4 Multi-agency support and protection plans

Where it is established that the adult is in need of protection, a multi-agency support and protection plan will be agreed by those attending the case conference and roles and responsibilities confirmed in respect of implementing this. Actions taken and progress made will be reviewed at subsequent review meetings using the plan as a basis for this (see below).

13. Adult protection reviews

Ath-bhreithneachaidhean dìon inbheach

- 13.1 All multi-agency support and protection plans must be reviewed **within a maximum of 6 months** of the date of the first case conference. If the plan is to be continued or if a new plan is made, a further review will be held, again within a maximum of six months. This process will continue for as long as it needs to in order to ensure the protection of the adult from risk of harm.

In terms of the review process:

- the Nominated Officer for Social Work and the Council Officer are responsible for setting the review date on CareFirst; and
- the Review Officer is responsible for arranging adult protection reviews and for recording information relevant to the review on CareFirst in accordance with the reviewing procedures.

14. Sharing information

A' co-roinn fiosrachadh

- 14.1 It is essential that all information shared about adults at risk of harm is always relevant and proportionate. The Highland Data Sharing Partnership⁷ has developed an Information Sharing Policy which takes cognisance of the Data Protection Act, Human Rights Act and the Freedom of Information Act, among others.

All information shared about adults at risk of harm **must** adhere to this guidance.

⁷ Information about this Policy can be accessed on The Highland Council's website at www.highland.gov.uk

15. Legal provisions of the Adult Support and Protection (Scotland) Act 2007

Ullachaidhean laghail Achd Dìon agus Taic nan Inbheach (Alba) 2007

Part Three of this document provides a summary of the relevant legislation and guidance that support these Inter-agency Procedures. These include the:

- **Adult Support and Protection (Scotland) Act 2007: Code of Practice;**
- **Adults with Incapacity (Scotland) Act 2000;**
- **Mental Health (Care and Treatment) (Scotland) Act 2003; and**
- **Social Work (Scotland) Act 1968.**

The following summarises the legal provisions of the Adult Support and Protection (Scotland) Act 2007:

15.1 Protection Orders

Three Protection Orders are defined in the Act:

- Assessment Order;
- Removal Order; **and**
- Banning Order.

In order to apply for a Protection Order, the Council Officer must provide evidence that the adult is at risk of **'serious harm'**

Please note that there is no definition of 'serious harm' in either the Act or the Code of Practice. Practitioners will have to determine in each individual case whether they consider that they have evidence of a risk of serious harm. Serious harm could include injury, long-term psychological harm or sustained financial exploitation, but some adults may be more vulnerable to serious harm than others in the same situation.

15.1.1 Consent

The principle of consent is fundamental to the successful implementation of Protection Orders and indeed the use of the Act generally. The issue of consent generally is discussed in paragraph 12 above.

Any action taken under the Act including a Protection Order can only be used when the adult at risk has consented, **or** where the adult has refused consent, **evidence must be given that the adult has been placed under 'undue pressure' to refuse consent by another person as defined under Section 35 (3-4).**

Such undue pressure may come from a person, i.e. a family member or carer in whom the adult has trust, and could come in the form of threats, physical assault, intimidation or more subtle psychological pressure. This person is not necessarily the person alleged to have caused harm.

The Sheriff will not approve a Protection Order if the adult has refused consent and insufficient evidence is given that undue pressure has been applied. It should be noted that where an adult lives alone and is refusing consent to a proposed action, it may not be possible to find evidence of undue pressure.

A flowchart which summarises the Protection Orders follows at Figure 2:

Figure 2: Adult Support and Protection (Scotland) Act 2007 Protection Orders flowchart

	Section 11 - Assessment Order	Section 14 - Removal Order	Section 19 - Banning Order
Consent	A protection order will not be granted unless the adult consents. However if consent is refused and evidence is given that the adult at risk is under undue pressure to refuse consent, the order may be granted. If evidence is given that the adult lacks capacity to give consent a Protection Order may be granted		
Powers	Allows a Council Officer or nominee to interview adult at risk in private. Health professional can conduct a private medical examination.	Allows a council officer, or any council nominee, to move a specified person to a specified place. Allows the Council to take such reasonable steps as it thinks fit to protect the person from harm.	Bans a person ('the subject') from being in a specified place or the vicinity of that place. Allows the Sheriff to make other orders which might be necessary for example preserving the adult's property, ejecting the subject from a specified place or area, or anything else which will ensure the protection of the adult
Conditions	Reasonable cause to suspect that the person is at risk and is being, or likely to be seriously harmed. Purpose is to establish whether the person is an adult at risk, and being, or likely to be, seriously harmed. There is a place available and suitable for the interview and examination.	The person subject to a removal order is an adult at risk who is likely to be seriously harmed if not moved. There is a place available and suitable for the person to be moved to. Order may require Council to allow any specified person to have contact with the adult at risk at specified times and under specific conditions (this includes the alleged perpetrator).	The adult at risk is being, or is likely to be, seriously harmed by another person. It would be better to remove the perpetrator from the house than to remove the adult at risk. The adult at risk is entitled to occupy the property concerned.
Timescales	Valid from the date specified in the Order. Expires 7 days after that date.	Expires after 7 days (but only 24 hours if application to JP). Adult must be moved within 72 hours of order being approved.	Valid for up to 6 months. The Order cannot be renewed but a new application can be made after expiry. Comes into operation only after the Order is served on the subject.
Warrant for entry	Required	Required	Not required
Application	Discuss with legal services Council Officer completes application form Provide evidence of risk, why order is needed and where adult is to be taken to Hand deliver or email to Sheriff Clerk		Discuss with legal services Council Officer completes application form Provide evidence of risk, why order is needed and: Why banning rather than removal Occupancy rights of adult Whether right of arrest is needed What other powers or conditions are sought
Urgent cases	Apply to JP	Apply to JP	Request Temporary Banning Order

15.1.2 Capacity

Where evidence is provided to the Sheriff that an adult at risk of harm lacks capacity, a refusal of consent can be over-riden and a Protection Order effected without having to give evidence of undue pressure. If the adult has a guardian or attorney, the guardian or attorney should be consulted at an early stage and can give consent.

15.1.3 Assessment Orders (Section 11)

Powers

- Allow a Council Officer, or any Council nominee, to interview the specified person in private, and
- Health professional nominated by the Council to conduct a private medical examination.

Criteria

- Reasonable cause to suspect 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.
- Purpose is to “**establish whether the person is an adult at risk, and being, or likely to be, seriously harmed**”.
- There is a place available and suitable for the interview and examination.

Timescales

- Valid from the date specified in the Order.
- Expires 7 days after that date.

15.1.4 Applying for an Assessment Order

An Assessment Order should only be applied for if there are serious concerns about an adult who may be at risk of harm and where it has not been possible to make a proper assessment. An Order should not be applied for unless attempts have already been made to undertake an assessment, and these have proved unsuccessful, because for example, access has not been allowed to the adult.

If it has already been established that the adult is at risk of serious harm, an Assessment Order may not be appropriate, and other legal powers should be sought if required.

The Council Officer must liaise closely with the Council’s Legal Services in making the application. The appropriate form (see Part Three) must be completed.

Information required to complete the form includes:

- evidence of the suspicion that the adult is at risk of serious harm;
- reason(s) why an assessment is required;
- where the adult will be taken to, i.e. the ‘suitable place’;

- whether, in an urgent case, the Sheriff will be asked under Section 41(2) to dispense with notice to the adult of the hearing, providing this does not adversely affect any other person;
- where the adult has not consented to the Order, evidence must be given of the undue pressure applied to the adult by others, e.g. family members, friends or acquaintances, not to consent. **NOTE: If there is no evidence of undue pressure and the adult does not consent, the application should not be made.**

The application for an Assessment Order must be forwarded to the Sheriff at the Court relevant to the adult's home address. If the situation is urgent the application should be delivered by hand or emailed following discussions with the Sheriff Clerk. It is the responsibility of the Council Officer, in conjunction with the Council's Legal Services, to lodge the application.

There is a requirement to give notice to the adult at risk of the application and a copy should be served on them as soon as the application is lodged in court.

If the Sheriff disapplies the requirement to give notice and grants the Assessment Order, it should be implemented without delay. Consideration should be given as to how to effect the order, including the involvement of Police officers and other colleagues. Involving someone who knows the adult may be helpful.

15.1.5 Warrants for entry

When an application for an Assessment Order is made it should include an application for a warrant for entry. The warrant can then be used if entry to premises is refused. Where entry has been, or is likely to be refused, the police must be involved as only a police constable can use reasonable force to gain entry. It is preferable to gain entry without the use of a warrant wherever possible, but it should be applied for at the outset to avoid the possibility of delay.

15.1.6 Suitable place for assessment

A suitable place to take the adult for assessment will depend on the person themselves and the purpose of the assessment. Possible places include a General Practice Surgery if a medical examination is required, a hospital if the adult has suffered injury or is unwell, the local social work office, residential home, or if appropriate the home of a family member or friend. Neither the Act nor the Code of Practice specifies what would be a suitable place. Such a place should be specified in the application.

15.1.7 Right of Appeal

There is no right of appeal against an Assessment Order.

15.2 Removal Order (Section 14)

Powers

- Allow a Council Officer, or any council nominee, to move a specified person to a specified place.
- Allows the Council to take such reasonable steps as it thinks fit to protect the person from harm.

Criteria

- The person subject to a Removal Order is an adult at risk who is likely to be seriously harmed if not moved.
- There is a place available and suitable for the person to be moved to.

Conditions

- The order may require the Council to allow any specified person to have contact with the adult at risk at specified times and under specific conditions (this includes the alleged perpetrator).

Timescales

- Expires 7 days after the day on which the adult is moved.
- Adult must be moved within 72 hours of the order being granted.

Only a Council Officer or a police constable may enter any place in order to move an adult and this power includes entering an 'adjacent place'.

15.2.1 Applying for a Removal Order

The Council Officer must liaise with the Council's Legal Services in making the application, using the appropriate form (see Part Three).

Information required to complete the form includes:

- evidence that the adult is at risk of harm;
- the reason why removal of the adult is required, rather than an assessment at home or a banning order on another person;
- where the adult will be taken to, i.e. the 'suitable place';
- whether there is a person or people who should have access to the adult during the period of removal and the nature of their relationship with the adult;
- whether the adult has consented and if not, what undue pressure has been applied not to consent; and
- whether notice to the adult should be dispensed with and why.

A Removal Order should be used when there are serious concerns about an adult and the only way of protecting the adult is by removing them to a safe place. It should be noted that the Order only lasts for 7 days from the date of removal and cannot be renewed. This means that consideration must be given before the order is applied for as to what will happen when it expires. If the adult has capacity and wishes to return home after 7 days, there is no legal mechanism to prevent this. In such cases, a Protection Plan must be devised as soon as possible.

Please note that steps must be taken by the Council to protect the property of the adult.

15.2.2 Warrant for entry

Application for a warrant for entry should be made at the same time and on the same form as the application for the Removal Order. The warrant expires 72 hours after it is granted.

15.2.3 Specified place for removal order

The place where the adult at risk is taken, i.e. the 'specified place,' is not defined in the legislation but it is imperative that it meets the adult's needs. The specified place is likely to be a care home, or another place where the adult feels safe, which could for example be the home of a family member. It will not be a hospital, unless this meets the adult's needs because of injury or illness.

15.2.4 Urgent cases

Where it is not practicable to apply to the Sheriff and the adult is likely to be harmed if there is any delay, the application may be made to a Justice of the Peace. In this case, the appropriate form should be used (see Part Three). This includes a warrant for entry. Where the application is granted by a Justice of the Peace, it must be implemented within 12 hours and the Removal Order expires 24 hours after the adult is removed rather than 7 days.

15.2.5 Right of appeal

There is no right of appeal against a Removal Order

15.3 Banning Orders (Section 19)

Powers

- Bans a person ('the subject') from being in a specified place or the vicinity of that place.
- Allows the Sheriff to make other orders which might be necessary for example preserving the adult's property, ejecting the subject from a specified place or area, or anything else which will ensure the protection of the adult.

Criteria

- The adult at risk is being, or is likely to be, seriously harmed by another person.
- It would be better to remove the perpetrator from the house than to remove the adult at risk.
- The adult at risk is entitled to occupy the property concerned or neither the adult nor the subject is entitled to occupy the place from which the subject is to be banned.

Timescales

- Valid for up to 6 months.
- The Order cannot be renewed but a new application can be made after expiry.
- Comes into operation only after the Order is served on the subject.

15.3.1 Applying for a Banning Order

The adult themselves or any other person entitled to occupy the property can apply for a banning order. The Council must apply if satisfied that the criteria apply and no one else has made or is likely to make an application.

The Council Officer must liaise closely with the Council's Legal Services in making the application. The appropriate form should be used (see Part Three).

Information required to complete the form includes:

- evidence that the adult is at risk of serious harm;
- evidence of why the adult will be better safeguarded by removing the subject rather than removing the adult at risk;
- evidence of the adult's entitlement to occupancy or lack of entitlement of both the adult and the subject;
- whether the Sheriff will be asked under Section 41(2) to dispense with notice to the adult of the hearing;
- where the adult has not consented to the Order, evidence must be given of the undue pressure applied to the adult by others, e.g. family members, friends or acquaintances, not to consent. **If there is no evidence of undue pressure, and the adult does not consent, the application should not be made;**
- whether application should be made for a power of arrest;
- what powers and/or conditions are being sought (please see below); and
- whether, in more urgent cases, a Temporary Banning Order is being sought.

The application for a Banning Order must be made at the Court relevant to the adult's home address. If the situation is urgent the application should be delivered by hand or emailed following a telephone call to the Sheriff Clerk. It is the responsibility of Council Officer in conjunction with the Council's Legal Services to lodge the application.

If the Sheriff makes a Temporary Banning Order, it should be implemented without delay. Consideration should be given as to how to effect the order, including the involvement of police officers and other colleagues. Involving someone who knows the adult may be helpful. A Temporary Banning Order expires when the main application is determined or is required to be determined, when it is recalled or on a specific date, if an expiry date is specified.

15.3.2 Powers and/or conditions which may be sought

The powers and/or conditions which may be sought are dependant on the adult's individual situation. They may include:

- banning and removing the subject(s) from the adult's home. Consideration must be given to the impact that this will have on the adult if the subject is the main carer.
- Banning the subject(s) from an area around the adult's home. This may be because people are harassing, intimidating or exploiting the adult by going to their house or the vicinity and demanding money, for example:
 - regulation of contact between the adult and subject(s)
 - attachment of a power of arrest
 - direction re preservation of the adult's property
 - prohibition on the subject from removing any specified thing from the specified place
 - anything else which is necessary to enforce the order.

15.3.3 Right of appeal

There is a right of appeal against a Banning Order to the Sheriff Principal, but only with leave of the Sheriff who granted the order, and from the Sheriff Principal to the Court of Session.

16. Critical incident reviews

Ath-bhreithneachaidhean thachartasan riatanach

- 16.1** All Critical incident reviews will continue to be undertaken in accordance with the inter-agency procedures that were developed as part of the implementation of the Mental Health (Care and Treatment)(Scotland) Act 2003.⁸

⁸ Please note that the time of publication of this document, the procedures for undertaking Critical Incident Reviews were being revised. Once the revision is completed the revised procedures will be accessible through the respective intranet facilities and the new Community Care website.

Adult support and protection

Dìon & Taic do dh'inbhich

Part Two - Legal context

Pàirt a Dhà - Co-theacsa laghail

In addition to the **Adult Support and Protection (Scotland) Act 2007**, there are a number of key pieces of legislation and guidance that support these Inter-agency procedures:

- **Adult Support and Protection (Scotland) 2007: Code of Practice;**
- **Adults with Incapacity (Scotland) Act 2000;**
- **Mental Health (Care and Treatment) (Scotland) Act 2003;**
- **Social Work (Scotland) Act 1968;**
- **Human Rights Act 1998;**
- **National Health Service and Community Care Act 1990;**
- **Local Government (Scotland) Act 1973;**
- **Vulnerable Witnesses (Scotland) Act 2004; and**
- **Protection of Vulnerable Groups Act 2007.**

Adults with Incapacity (Scotland) Act 2000

The Adults with Incapacity (Scotland) Act 2000 provides the means to protect those with incapacity, for example through financial and welfare guardianship. It is concerned with adults aged 16 or over who are defined as being:

Incapable of acting, making decisions, communicating decisions, understanding decisions or retaining the memory of decisions, by reason of mental disorder or physical disability.

An adult with an inability to communicate which can be resolved by human or physical aid or intervention does not fall within the definition of the Act. All decisions made on behalf of an adult with impaired capacity must:

- benefit the adult;
- take advantage of the adults wishes;
- take account of the wishes of the nearest relative or primary carer and any guardian or attorney;
- restrict the adult's freedom as little as possible while still achieving the desired benefit; and
- encourage the adult to use or develop their existing skills in the relevant areas of decision making.

Capacity is not an 'all or nothing' state. An adult may be able to make decisions relating to some aspects of his/her life, but not others.

The Act places responsibility on a number of different agencies who are concerned with the welfare of adults who are incapacitated:

- in relation to medical treatment and research a medical practitioner has the authority to provide treatment to 'safeguard or promote physical and mental health';
- a Local Authority has a duty to apply for an **Intervention Order** or **Guardianship Order** to protect the property, finances or welfare of an adult if no one else will do so;
- a Local Authority has a responsibility to investigate the circumstances of any individuals at risk who come under the powers/functions of the Act;
- a Local Authority can apply for an Intervention Order to resolve short term issues, such as financial, on a short term basis; and

- Power of Attorney can assist in preventing financial harm.

The Local Authority has a responsibility to investigate the circumstances of any individual at risk who comes under the powers/functions of the Act and the Local Authority also has a duty to investigate any circumstances made known to them in which the personal welfare of an adult seems to them to be at risk.

Intervention Order

It is the duty of the Local Authority to apply for an Intervention Order when it appears to the Local Authority that:

- the adult is incapable (as mentioned in 53(1)); and
- an intervention order is necessary for the protection of the property, financial affairs or personal welfare of the adult.

Guardianship Order

A Guardianship Order can be sought by the local authority when:

- an adult is incapable in relation to decisions about, or of acting to safeguard, or promote their interest in, property, financial affairs or personal welfare and is likely to continue to be incapable;
- no other means provided by or under the Adults with Incapacity (Scotland) Act 2000 would be sufficient to enable the adult's interests as above to be safeguarded or promoted;
- no application for guardianship has been made or is likely to be made; and
- a Guardianship Order is necessary for the protection of the property, financial affairs and/or personal welfare of the adult.

Mental Health (Care & Treatment) Act 2003

The Mental Health (Care and Treatment)(Scotland) Act 2003 sets out duties in relation to people with mental disorder who are subject to ill-treatment or neglect. The Act defines mental disorders as any mental illness, personality disorder or learning disability, however caused or manifested. It places duties on Local Authorities to provide the following for people who have a mental disorder:

- care and support services;
- services to promote well being and social development; and
- assistance with travel.

It also places a duty on the Local Authorities to make inquiries where it appears that a person aged 16 or over, who has a mental disorder and:

- may be or may have been subject or exposed to ill treatment, neglect or some other deficiency in care or treatment;
- their property may be suffering or have suffered loss or damage – or may be at risk of loss or damage;
- may be living alone or without care and unable to look after themselves or their property or financial affairs; and
- because of the mental disorder the safety of some other person may be at risk.

The Local Authority has powers under the Act to request other organisations to support them in carrying out enquiries. This includes NHS and the Care Commission, among others.

Within this Act, Mental Health Officers are given powers to be able to apply to a Sheriff or Justice of the Peace for warrants to ensure the protection of adults with mental disorders from abuse and neglect, as outlined above. Three different powers can be requested by the Mental Health Officer:

- to authorise entry;
- to authorise the detention of the person in situ for up to 3 hours for the purposes of a medical examination by a medical practitioner (named in the warrant); and
- to authorise a specified medical practitioner to access and inspect medical records.

The warrant can also authorise specified individuals to do certain things, including medical practitioners.

Removal Order

Removal Orders can be applied for under Section 203 of the Act which authorise a police constable to enter premises and to remove a person aged 16 years or over to a place of safety for a period not exceeding 7 days.

Section 292 permits any person authorised under the Act to apply for a warrant to enter premises and to take a patient who is already subject to the Act to any place or into custody

Sections 36 and 44 allows a person with a mental disorder to be admitted and detained in a psychiatric hospital for assessment and treatment

Section 63 allows for an application to be made to the Mental Health Tribunal for a compulsory treatment order, which can either authorise care and treatment in hospital or in the community

If required, advice should be sought from a qualified Mental Health Officer

Social Work (Scotland) Act 1968 (as amended by the NHS and Community Care Act 1990 and the Community Care and Health (Scotland) Act 2002)

The Act identifies a general duty to assess needs in relation to the provision of community care services and to give carers a right to have their needs assessed by the Council. It is expected that wherever possible intervention will take place under the Social Work (Scotland) Act 1968 as amended or will revert to this legislation whenever practicable.

Vulnerable Witnesses (Scotland) Act 2004

The Vulnerable Witnesses (Scotland) Act 2004 makes provision for the use of special measures for the purpose of taking evidence from adults who are deemed to be vulnerable witnesses.

Part Three - Proforma

Pàirt a Trì - Proforma

Please note that these sample proforma can be accessed electronically via the respective intranets of The Highland Council, NHS Highland and Northern Constabulary.

Contents

Proforma: Referral form

Proforma: Assessment order

Proforma: Removal order

Proforma: Banning order

Highland Adult Support and Protection Reporting a concern

1. Details of person completing the form

*indicates required information

Full Name *	
Role /job title	
Organisation/Address *	
Contact Details *	
Date Form Completed *	
Has the adult consented to information being disclosed	Yes/No

2. Details of adult at risk

Name *	
Address *	
Date of Birth*	
Gender *	
CHI/CareFirst No. (where known)	

3. Details of concern/incident

Date and Time of concern/incident *	
Location of concern/incident *	
Description of concern/incident *	
Action taken/outcome to date *	

Additional action planned	
---------------------------	--

4. Details of any other parties involved

Name and Relationship to the person at risk *	
Contact details *	
Role in concern/ incident* Including details of parties not to be directly contacted or risks associated with contact	

5. Category of risk

Using your experience/judgement, grade the category of risk: *

Low Medium High Very High (Please tick)

Reasons for category rating:

6. Incident reported to:

Name *	
Date *	
Form sent to (office)	
Receiving worker ID/ date received	
Initial Action and Outcome details	

Sheriffdom of Grampian, Highland and Islands

Assessment Order

Application for an Assessment Order by The Highland Council

Section 11 of the Adult Support and Protection (Scotland) Act 2007

Case No. Date Lodged
Application to Sheriff at
For an Assessment Order under Section 11 of the Adult Support and Protection (Scotland) Act 2007

Part 1: Details of applicant and other person who the applicant believes should receive notice of the application
--

Applicant: Insert name, address, telephone number, DX and fax numbers of Local Authority		
Name:	Designation:	
Address:	The Highland Council, Social Work Services	
Local Office:	Telephone	
	Fax Number	
	DX Exchange	
Adult: Insert name, address, gender and date of birth		
Name:	D.O.B	Gender: M/F
Address:		
Safeguarder:		
Insert name, address, telephone number, DX and fax number (if known) of any Safeguarder appointed		
Name:		
Address:	Telephone:	
	Fax Number:	
	DX Exchange:	

Sheriffdom of Grampian Highland and Islands

Removal Order

Application for a Removal Order by The Highland Council

Section 14 of the Adult Support and Protection (Scotland) Act 2007

Case No. Date Lodged		
Application to Sheriff at		
For a Removal Order under Section 14 of the Adult Support and Protection (Scotland) Act 2007		
Part 1:		
Details of applicant and other persons who the applicant believes should receive notice of the application		
Applicant:		
Insert name, address, telephone number, DX and fax numbers of Local Authority		
Name:	Designation:	
Address		
Local Office	Telephone	
	Fax Number DX Exchange	
Adult and subject of the application: Insert name, address, gender and date of birth		
Name:	D.O.B	Gender: M/F
Address:		
Safeguarder: Insert name, address, telephone number, DX and fax number (if known) of any Safeguarder appointed		
Name:		
Address:	Telephone: Fax Number:	
		DX Exchange:

**Details of any person who should receive notice of the application:
e.g. any person who is caring for the adult at the time of the application being made:
Insert name, address, telephone number of persons and provide details of their interest in the application. This should include any guardian or attorney of the Adult who is the subject of the Application**

Relationship:	Name	Address	Tel No

Detail of the above person(s) interest in the application and/or child

Part 2: Information about the application and orders sought

Grounds for making application:

**Application to provide details of grounds for making the application:
Section 14 and 15 Adult Support and Protection (Scotland) Act 2007.**

- | | |
|---|--------------------------|
| Section 15(1) Application by Local Authority and it is considered that | <input type="checkbox"/> |
| a. The person in respect of whom the order is sought is an adult at risk who is likely to be seriously harmed if not moved to another place | <input type="checkbox"/> |
| AND | |
| b. There is an available and suitable place to which to move the Adult at risk | <input type="checkbox"/> |

**Other applications and orders which affect the adult:
Insert details of any other guardianship or power of attorney to which the Adult is subject**

**Supporting evidence:
The following supporting evidence is produced - List any reports, statements, affidavits or other evidence produced**

**Suitability of the place where it is proposed the adult be removed to
Insert details including address of the proposed place and the proposed carer**

Part 3: Details of order sought and any terms, conditions or directions

Order sought

The applicant requests the Sheriff to make a Removal Order in respect of the Adult (*insert name*) and a Warrant to enter the premises at (*insert property from where adult is to be removed*) in order to remove the Adult.

Terms and conditions to be attached to order

In terms of Section 15 of the Adult Support and Protection (Scotland) Act 2007 the applicant seeks an order to (tick where applicable)

- a. Authorise a Warrant to remove the Adult by the applicant to (*insert name of the place*)
- b. Keeping the Adult at that place for a period of (*insert period – not more than 7 days*)
- c. Dispense with service of this Order of the Adult for the following reasons:-

Ancillary orders in relation to contact section 15 (2) Adult Support and Protection (Scotland) act 2007

Insert any proposed contact arrangements between the Adult and any specified person during the period of removal.

PART 4: Details of first order sought from the Sheriff

The applicant requests the sheriff to:

- a. Make a Removal Order in respect of the said Adult on the terms and conditions set out in Part 3 of the application, and subject to the directions sought in Part 3 of the application.

- b. Order the applicant to forthwith serve a copy of the Removal Order (and a copy of the application) on, the persons listed in Part 1 of this application,
- c. Dispose with service of this order on the Adult in order to protect them from serious harm

Signed Date

(Name, designation, and address, telephone, DX and fax numbers)

Name:	Designation:
Address	
Local Office	Telephone
	Fax Number
	DX Exchange

Sheriffdom of Grampian Highland and Islands

Banning Order

Application for a Banning Order by The Highland Council

Section 19 of the Adult Support and Protection (Scotland) Act 2007

No. Date Lodged.
Application to Sheriff at
for a Banning Order under Section 19 of the Adult Support and Protection (Scotland) Act 2007

Part 1: Details of applicant and other persons who the applicant believes should receive notice of the application

Applicant:.....

Adult:.....

Safeguarder (if any):.....

Subject of the order:.....

The principal reporter (only if the subject is a child):.....

Any other person who should receive notice of application:.....

Part 2: Information about the application and orders sought

Grounds for making application

Grounds for making application - Section 20 Adult Support and Protection (Scotland) Act 2007	
The Local Authority Applicant considers that:-	
c. An Adult at risk is being, or is likely to be, seriously harmed by another person; AND	<input type="checkbox"/>
d. The Adult's wellbeing or property would be better safeguarded by banning	<input type="checkbox"/>

that other person from a place occupied by the Adult than it would be by moving the Adult from that place; AND	<input type="checkbox"/>
Either (<i>Delete whichever is not applicable</i>)	
e. (i) The Adult is entitled or permitted by a third party to occupy the place from which the subject is to be banned; OR	<input type="checkbox"/>
(ii) Neither the Adult nor the subject is entitled or permitted by a third party to occupy the place from which the subject is to be banned.	

Any other relevant application or order which affects the adult.

List any Guardianship or Power of Attorney which is in place for the Adult.

Supporting evidence The following supporting evidence is produced. List any reports, statements, affidavits etc

Part 3: Details of order sought and any terms, conditions or directions

Order sought: The applicant requests the Sheriff to grant a Banning Order against the subject (*insert name*) in respect of the Adult (*insert name and address*) barring the subject from (*specify address or area*)

Ancillary orders sought

- a. Grant a warrant for the summary ejection of the subject from (*specify address or area*) in terms of Section 19(2)(b).
- b. Grant an Interdict in terms of Section 19(1) prohibiting the subject from entering (*specify address or area*) without the express permission of the Local Authority.
- c. Grant an Interdict in terms of Section 19(2) prohibiting the subject from going within (*insert distance*) metres of the property at (*specify address*).
- d. Grant an Interdict in terms of Section 19(2) prohibiting the subject from all forms of communication, including written and telephone communication, with the Adult without the permission of Social Work Services.
- e. Attach a power of arrest to any breach of the Order as noted above.

Directions as to preservation of named person's property.

In terms of section 19(2) the applicant seeks the following direction:

Prohibiting the subject from moving any (*insert specified thing*) from (*insert place*)

Part 4: Details of first order sought from the Sheriff

The applicant requests the sheriff to:

- a. Fix a hearing
- b. Order the applicant to forthwith serve a copy of the application on,
 - i. the Adult,
 - ii. the subject,
 - iii. the persons listed in paragraph 1 of this application,
- c. Dispense with service on the Adult for the following reason: -
- d. Make a temporary Banning Order excluding the subject from (*specify address or area*)
- e. Grant a warrant for the summary ejection of the subject from (*specify the address or area*)
- f. Grant an interim Interdict in terms of Section 19(1) prohibiting the named person from entering the (*specify the address or area*) without the express permission of the Local Authority.
- g. Grant an interim Interdict in terms of Section 19(2) prohibiting the subject going within (*insert distance*) metres of the (*specify the address or area*)
- h. Grant an interim Interdict in terms of Section 19(2) prohibiting the subject from all forms of communication including written and telephone communication with the Adult without the permission of Social Work Services.
- i. Attach a power of arrest to any breach of interdict as noted above.

(Delete any conditions which are not applicable)

Name:

Signed Date:

Designation:

tel:

fax:

Details of any person who should receive notice of the application e.g. any person who is caring for the adult at the time of the application being made:

Insert name, address, telephone number of persons and provide details of their interest in the adult. This should include any guardian or attorney of the Adult who is the subject of the Application.

Relationship:	Name	Address	Tel No

Detail of the above person(s) interest in the application

Part 2: Information about the application and orders sought

Grounds for making application

**Application to provide details of ground for making the application:
See Section 11 of the Adult Support and Protection (Scotland) Act 2007**

Section 11 (please tick where applicable)

- f. The Local Authority have reasonable cause to suspect that the person in respect of whom he order is sought is an Adult at Risk who is being, or is likely to be, seriously harmed.
- g. An Assessment Order is required in order to establish whether the person is an adult at risk who is being or is likely to be, seriously harmed; and
- h. There is a suitable and available place at which the person is to be interviewed and examined

Include reasons why the Adult is considered to be at risk and details concerning the place where the assessment is to be carried out. Also indicate by whom this assessment will be carried out.

Supporting evidence

The following supporting evidence is produced List any reports, statements, affidavits etc

Other applications and orders which affect the adult

Insert details of any other guardianship or power of attorney orders made which affect the Adult

Part 3: Details of the order sought and any terms conditions or directions

Assessment

a. the type of assessment is:

b. the assessment would begin on:

c. the person(s) to be authorised to carry out any assessment is/are (*insert name, designation and address*)

Name:

Designation:

Address:
.....
.....

Name:
Designation:
Address:
Name:
Designation:
Address:

Part 4: Details of first order sought from the Sheriff

The Applicant requests the sheriff to:

- a. Fix a hearing
- b. Order service on the Adult
- c. Order service of a copy of the application and the first order on the persons listed in Part 1 of this application.
- d. Dispense with service on the Adult for the following reasons:
- e. Grant warrant for entry to the property at (insert adult's address).

Signed Date

Appendices

Pàipearan-taice

Appendix A - Glossary

Adult	means any person aged 16 years old or over, who is not subject to childcare legislation. In Highland, separate procedures exist for responding to young people aged between 16 and 18 years who are believed to be at risk of harm.
Adult at risk of harm	means an adult who: <ul style="list-style-type: none"> • is unable to safeguard his/her own well being, property rights or other interests <li style="text-align: center;"><u>and</u> • is at risk of harm <li style="text-align: center;"><u>and</u> • because affected by disability, mental disorder, illness or physical or mental infirmity is more vulnerable to being harmed than an adult who is not so affected.
Attorney	means an individual who has been awarded Power of Attorney by the courts.
Carer	means a relative or friend who acts as an unpaid carer or a person who is paid to undertake caring tasks.
Child Protection Register	means the Council-held register that records the names and details of children who are formally considered to be at risk of harm. There is no equivalent register for adults at risk of harm.
Council Officer	means the person who is appointed to be the investigating officer and given specific duties under the Act. The Council Officer is an employee of a local authority and in Highland can be a Social Worker, Social Work Occupational Therapist, and, where employed by the Highland Council, a Nurse.
Guardian	means a person appointed by the Sheriff under section 59 of the Adults with Incapacity (Scotland) Act 2000 as Guardian. A Guardianship Order may be necessary for the protection of the property, financial affairs or personal welfare of the adult.
Highland Adult Support and Protection Committee	means the body that has an overview of adult support and protection in Highland.
Justice of the Peace	means a lay person who is generally not legally qualified and who hears criminal cases such as theft, assault, breach of the peace and road traffic offences in the local courts. A Justice of the Peace, commonly known as a JP, also has other powers, including those relating to the Adult Support and Protection (Scotland) Act 2007.
Nominated Officer	means in Highland a member of staff in the Council, NHS or Police who ensures that the Inter-Agency Procedures are consistently applied; advises staff in their own agency on matters relating to the protection of adults at risk of harm;

	ensures that agency training needs are identified and responded to; provides and/or arranges support for staff, carers and others as required; and contributes to the ongoing review of the procedures.
Office holder	means the person employed by the local authority, NHS board or other public body
Principles	means a set of beliefs and underlying philosophy
Public body	means a local authority, NHS board or other body
Values	means a set of standards that are aspired to
Welfare Guardian	See 'Guardian' above

Appendix B - Useful Contact Information

The Highland Council

Community Care – Key Referral Points for Adult Support and Protection

Inverness, Nairn, Badenoch and Strathspey

Town House, Inverness (01463) 724220

Ross, Skye and Lochaber

Council Offices, Dingwall (01349) 868567

Caithness, Sutherland and East Ross

Social Work Office, Wick (01955) 605040

Out of Hours (all areas) 0845 769 7284

Northern Constabulary

Public Protection Units contact through (01463) 715555

Her Majesty's Forces

Army - Army Welfare - The Divisional Welfare Support Officer (DWSO)

Army HQ 2nd Division	Lowlands	Highlands
Craigiehall	Building 29	24 Wimberley Way
South Queensferry	Dreghorn Barracks	Inverness
West Lothian	Redford Road	IV2 3XX
EH30 9TN	Edinburgh	
	EH13 9QW	

DWSO AWS	WSO AWS	WSO AWS
0131 310 2107/2108	0131 310 2850	01463 233132

Royal Navy - The Naval Personal and Family Services (NPFS),
All cases abroad are initially handled by the Eastern Area.

East:	West:	North:
Area Officer (NPFS)	Area Officer (NPFS)	Area Officer (NPFS)
HMS NELSON	HMS DRAKE	HMS NEPTUNE
Queen Street	HM Naval Base	Triton House
Portsmouth	Devonport	1-5 Churchill Square
Hampshire	Plymouth	Helensburgh
PO1 3HH	PL2 2BG	Argyll & Bute
G84 9HL		

Tel: 01705 820932 Tel: 01752 568611 Tel: 01436 826774/672798

Royal Marines - The Royal Marine Welfare Service (SO3 WFS).

Scotland	SO3 WFS
Welfare Officer	Welfare Officer
RM Condor	HQRM
Arbroath	West Battery
Angus	Whale Island
DD11 3SJ	Portsmouth
Hampshire	
PO2 8DX	

Tel: 01241 872201 ex2015/6 Tel: 01705 547542

Royal Air Force

Social work is co-ordinated by each Station's Personnel Officer; the officer Commanding Personnel Squadron (OCPMS). Where the parent unit is not known, contact the OCPMS or SSAFA Forces Help Adviser at the nearest RAF unit.

If you wish to discuss informally contact the SSAFA Social Work Adviser at RAF Lossiemouth (Tel No: 01343 812121 extn 7399).

Service families going or returning from overseas

The Soldiers', Sailors', Airmen's and Families Association Forces Help (SSAFA Forces Help)

Director of Social Work
SSAFA FH
Central Office
Queen Elizabeth The Queen Mother House
19 Queen Elizabeth Street
LONDON
SE1 2LP

Tel: 020 7403 8783

Appendix C - Nominated Officers in Highland

1. Social Work

Caithness, Sutherland and Easter Ross

Younger Adults Team Manager: Drummuie, Golspie, Sutherland KW10 6TA
(Tel. No. 01408 635200)

Older Adults Team Manager, Caithness: 125/127 High Street, Wick KW1 4LR (Tel. No. 01955 605040)

Older Adults Team Manager, Sutherland and Easter Ross, 31 High Street, AIness IV17 0PT (Tel. No. 01349 880904/884764)

Community Mental Health Team Manager: County Community Hospital, Invergordon (Tel. No. 01349 853636)

Ross, Skye and Lochaber

Younger Adults Team Manager: Glen Orrin, High Street, Dingwall IV15 9TF (Tel. No. 01349 867915)

Older Adults Team Manager, Ross-shire: 4 Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB (Tel. No. 01349 868700)

Older Adults Team Manager, Skye and Lochalsh: Old Corry Industrial Estate, Broadford IV49 9AB (Tel. No. 01471 820174)

Older Adults Team Manager, Lochaber: Fulton House, Gordon Square, Fort William PH33 6DX (Tel. No. 01397 707025)

Community Mental Health Team Manager: Fort William Health Centre, Camaghael, Fort William PH33 7AQ (Tel. No. 01397 709830)

Inverness, Nairn, and Badenoch and Strathspey

Younger Adults Team Manager, Inverness East: Corbett Centre, Coronation Park, Inverness IV3 8AD (Tel. No. 01463 729282)

Younger Adults Team Manager, Inverness West: (same address and telephone number)

Older Adults Team Manager, Inverness East: Upper Shopping Mall, Culloden Shopping Centre, Keppoch Road, Inverness IV1 2LL (Tel. No. 01463 798337)

Older Adults Team Manager, Inverness West: (same address and telephone number)

Older Adults Team Manager, Nairn and Badenoch and Strathspey: Corsee, Victoria Street, Nairn IV12 4HH (Tel. No. 01667 453951)

Community Mental Health Team Manager: Larch House, Stoneyfield Business Park, Inverness IV2 7PA (Tel. No. 01463 711744)

Raigmore Hospital Team Manager: Raigmore Hospital, Inverness IV2 3UJ (tel. No. 01463 704204)

Out of Hours (all areas) 0845 769 7284

Please note: All referrals regarding an adult who may be at risk should be directed to the relevant social work team as above

2. NHS Highland

North CHP

Assistant General Manager, Caithness: Caithness General Hospital, Bankhead Road, Wick, KW1 5NS (Tel. No. Tel: 01955 605050)

Assistant General Manager, Sutherland: Lawson Memorial Hospital, Station Road, Golspie Tel. No. 01408 664029/043)

Mid CHP

Locality General Manager, Skye. Lochalsh, Ross, Cromarty and West Ness: Larachan House, 9 Docharty Road, Dingwall IV15 9UG (Tel. No. 01349 869221)

Locality General Manager, Lochaber: Fort William Health Centre, Camaghael, Fort William PH33 7AQ (Tel. No. 01397 709841)

South-East CHP

Locality General Manager, Inverness and Nairn: Alder House, Cradlehall Business Park, Inverness IV2 5GH (Tel. No. 01463 706948)

Locality General Manager, Badenoch and Strathspey: same address

Hospitals

New Craigs Hospital: Service Manager (Mental Health and Learning Disability), New Craigs Hospital, Leachkin Road, Inverness IV3 8NP (Tel. No. 01463 704651)

Raigmore Hospital: Hospital Manager, Raigmore Hospital, Old Perth Road, Inverness IV2 3UJ (Tel. No. 01463 705152)

3. Northern Constabulary

North Division (Caithness, Sutherland and Easter Ross)

Public Protection Inspector. Police Station, Orlig Street, Thurso KW14 7JA (Tel. No. 01847 805334)

Central Division (Ross, Cromarty, Skye and Lochaber)

Public Protection Inspector. Police Station, Bredaig, Dingwall IV15 9QH (Tel. No. 01349 869510)

East Division (Inverness, Nairn and Badenoch and Strathspey)

Public Protection Inspector. Police Station, Burnett Road, Inverness IV1 1RL (Tel. No. 01463 228573)

Headquarters Division

Public Protection Unit, Crime Services, Northern Constabulary HQ, Old Perth Road, Inverness IV2 3SY (Tel. No. 01463 720279)

Please note: Headquarters division will deal with general queries and cases where the adult at risk is out of area.