Highland Large Scale Investigation Protocol

An interagency protocol for the support and protection of adults at risk of harm in managed care settings

PART ONE – CONTEXT AND PURPOSE

1. INTRODUCTION

1.1 The revised Code of Practice for the Adult Support and Protection (Scotland) Act 2007 (the Act) was published in 2014 and it describes and offers guidance on large scale adult support and protection investigations for the first time. Practice across Scotland had already identified and found responses to instances where more than one adult was deemed to be at risk of harm in a service or care setting and there was a resulting demand for clear definitions and approaches to this work to be reflected in the revised Code of Practice.

2. PURPOSE OF PROTOCOL

2.1 This Protocol has been developed to support consistent practice and process in Managing large scale investigations across the Highlands. It reflects the aspirations of the Code of Practice that 'Local multi-agency adult protection procedures should include a procedure for large-scale Investigations'. This protocol sits alongside Highland's existing inter agency procedures and will be used in conjunction with existing guidance.

2.2 The Protocol:

- details a standardised multi disciplinary and multi-agency approach to be implemented in all cases consistent with current evidence of best practice.
- offers a framework for an alternative process to holding large numbers of individual adult support and protection inquiries
- ensures that there is adequate overview / co-ordination where a number of agencies have key roles to play
- clarifies the roles and responsibilities amongst key agencies involved in large scale investigations in the Highlands including where these may involve individuals from more than one local authority area
- provides a structure for ethical issues related to the protocol to be recognised and managed sensitively and appropriately.

3. CRITERIA FOR LARGE SCALE INVESTIGATION

3.1 A large scale investigation may be required:

'where an adult who is a resident of a care home, supported accommodation, a NHS hospital ward or other facility, or receives services in their own home has been referred as at risk of harm and where investigation indicates that the risk of harm could be due to another resident, a member of staff or some failing or deficit in the management regime, or environment of the establishment or service'. (Adult Support and Protection (Scotland) Act 2007 Code of Practice (2014))

3.2 The definitions of an 'adult at risk' and of 'harm' are contained in the Adult Support and Protection (Scotland) Act 2007, subsequently referred to as 'the Act' and are summarised in Appendix 1 of this protocol.

3.3 In accordance with the criteria at 3.1 above, a Large Scale Investigation (LSI) should be considered in a range of circumstances which include the following:

- **Where concerns are raised about systemic failure in the delivery of quality services which is placing individuals at risk of harm in care settings. This may be described as organisational or institutional harm. Organisational harm may be evidenced in a range of way**s. *For example: residents having to go to bed before night staff come on duty, residents unable to access food or drink during the night, call bells being removed from residents, residents being left all night in soiled beds or pads resulting in a loss of dignity*

- **Where a report of harm relating to one individual may affect a number of other individuals also in receipt of care. This may be because an investigation into one allegation leads people to strongly believe other people may also be victims of the same harm.** *For example, an adult in a care home complains of being hungry because there is no food, or an obvious lack of appropriate or broken equipment in a care setting seen in relation to one person is likely to affect others using the same or similar equipment.*

- **Where there are a number of individuals being harmed in a variety of settings. A number of adults at risk in the community may be systematically targeted by one or more harmers.** *The following are examples. One support worker intimidating and threatening more than one adult with learning disabilities in a supported living environment resulting in the adults being frightened and distressed. Two care at home workers/personal assistants work together to financially harm adults living in their own homes. Although Police Scotland will have the lead responsibility to investigate where crimes have been committed however the large scale investigation approach brings together key agencies to assist in the investigation and take a consistent approach to supporting and protecting the victims of crime*

- **Where multiple allegations are received from service users and families/carers against other service users.** *For example, one resident is regularly reported to staff for aggressive or unwanted sexualised behaviour towards other service users.* In these circumstances, experience indicates that taking a proactive approach which can address supervisory arrangements and/or the management of behaviour describes as stressed, distressed, aggressive or sexualised, is potentially effective.

- **Where there have been 3 or more adult protection investigations within a 12-month period related to the same service where the outcome indicates that harm has been caused**. *For example, an instance of financial harm is investigated in January, medication errors resulting in harm are investigated in April and missed help calls resulting in serious harm are referred in September. These instances may*

all relate to different individuals but could be indicative of the agency not operating a safe service with a focus on continuous improvement.

- **Where there are both significant concerns about the quality of care provided and there are concerns about the service's ability to improve.** *For example: high number of low level concerns and complaints are being received from various people and agencies. These may include: no registered manager in place, a high staff turnover rate, poor quality environment, service users appear neglected and uncared for; lack of or resistance to external involvement and overall the service does not seem to be able to improve standards of care and support quickly enough or to sustain improvements*

- **Where a whistleblower makes allegations about the management or regime of a service.** *For example: A whistleblower alleges the manager of a service instructs staff to use out of date or insufficient portions of food, staff are intimidated or threatened with dismissal if they tell anyone else about poor practice, staff feel the manager is unavailable when difficult issues arise*

- **Where the situation is very complex and where special planning and coordination of the investigation is required.** *For example: An investigation will require input from a number of agencies and professionals including the Care Inspectorate and specialist professionals to address issues such as management of medication, tissue viability, health and safety.*

PART TWO – MAKING INQUIRIES AND PLANNING

1. LEGISLATIVE FRAMEWORK IN HIGHLAND

1.1 With the integration of Health and Social Care in Highland, and in line with the Partnership Agreement of March 2012, the Highland Council's lead role in Adult Support and Protection investigations was devolved to NHS Highland, now responsible for the delivery of adult social care services under a 'Lead Agency' model. NHS Highland now has a duty to make inquiries where it is known or believed that an individual may be an adult at risk of harm and that protective action may be required. N.B. Mental Health Officer and Criminal Justice Services remaining in Highland Council will also follow this protocol

2. 0 PROTOCOL DEVELOPMENT

2.1 This Protocol has been developed, discussed and agreed by NHS Highland, The Highland Council, Police Scotland, and the Care Inspectorate, who will be the key agencies involved in any investigation process involving managed care settings. Whilst not directly involved in the creation of this procedure, Healthcare Improvement Scotland (HIS), the Mental Welfare Commission and the Office of the Public Guardian have also been consulted in relation to the content of the Protocol.

The Protocol is designed to minimise risk to both residents and staff in any care setting whether residential, day care, hospital or in relation to individuals receiving services in their own homes.

3.0 RECEIVING CONCERNS

3.1 Concerns about a person being harmed in a care setting may come from a range of different sources. These can include:

- concerns raised by service users themselves
- family members or friends making a complaint about standards of care;
- concerns from community members, family, friends and neighbours about adults who may be at risk of harm in community or care settings
- whistle-blowing from within an organisation;
- Contract monitoring;
- the Care Inspectorate/ Healthcare Improvement Scotland through Complaints or Investigation processes;
- the Procurator Fiscal investigating an unexpected death;
- concerns raised by a medical or nursing professional, including following an admission to hospital;
- concerns raised by professionals across police, health, social care, housing, trading standards, financial agencies, advocacy services

3.2 When a concern is received about an adult at risk potentially being harmed within a care setting, or where there may be a potential systemic failure in the delivery of care services to adults at risk, there is a legal duty to make inquiries. These inquiries should consider whether there is potential that other adults are also experiencing harm or are at risk of harm, and should include consultation with key partners.

3.3 The Code of Practice states that the following should be alerted and be involved in any large scale investigation with due regard given to sensitivities and conflicts of interest where staff are involved or commissioning or scrutiny processes are deficient:

- Care Inspectorate or Health Improvement Scotland (HIS) staff,
- contracting and commissioning staff within purchasing authorities,
- health and social care teams for the local authority/Health Board area in which the establishment is sited or the service is delivered
- the police, particularly where there is the possibility that a crime has been committed. If a crime is suspected and following discussion with the relevant District or alternative Senior Manager, a Large Scale Investigation should be recommended and in these circumstances, this protocol should be followed.

4.0 INITIAL INQUIRIES

4.1 If there is concern that adults may be at risk of harm in any setting where they receive care and a Large Scale Investigation may be required, the District Manager for the area in which the service is based will consult with relevant Nominated Officers for social work, health and Police Scotland. At this stage advice can also be sought from the Lead Adviser, Adult Support and Protection.

4.2 This inter-agency discussion will form part of the initial inquiry process and will consider:

- Whether individuals may be at risk of imminent harm and any immediate protective action is required
- Whether there is a potential risk to any other individuals not mentioned in the initial concern
- The impact on key stakeholders (see Appendix 4)
- Whether a multi-agency planning meeting should be convened to assess whether a Large Scale Investigation should be initiated and how it should be conducted
- The urgency of this situation and who will take responsibility for making initial arrangements
- A media strategy (see Appendix 5)

4.3 If the allegations relate to a registered service then the Care Inspectorate should be alerted at this stage. The Lead Adviser for Adult Protection (Lead Officer) and the Director of Adult Social Care should also be alerted if this has not already been done. Contracts Team should be informed if the service is contracted with NHS Highland. All decisions taken should be recorded.

4.4 An impact assessment should be undertaken at key points of the process including the initial stages to consider the impact the investigation itself may have [see Appendix 4]. This will include consideration of and contingencies for:

- How the service will be managed in the interim
- Impact on service users, families and staff as a result of investigation and any press interest
- Processes to be undertaken in the review of service users / patients
- How and what information should be disseminated to any agreed parties

4.5 There is a duty under the Act to consider the importance of advocacy and other services. Service users, or their primary carer/nearest relative, should routinely be given information about an appropriate advocacy service in all cases.

4.6 Where any media interest is likely, the lead senior manager and the appropriate communication teams from relevant agencies should agree a joint media strategy. The Director of Adult Social Care will need to be appraised and may decide to direct / manage this process. Local chief officers' groups and elected members may also require to be briefed. [see Appendix 5].The Lead Adviser for Adult Support and Protection should advise the Chair of the Adult Support and Protection Committee when any Large Scale Investigation is initiated.

4.7 If a large number of adults could be at risk as a result of an emergency situation in a registered care home (such as failure of business or a situation requiring evacuation) then emergency planning arrangements should be agreed within the Council & Health Board contingency plan. COSLA's Good Practice Guidance on the Closure of a Care Home should be referred to where short notice home closure is being considered.

5.0 INITIAL MULTI-AGENCY PLANNING MEETING

5.1 A multi-agency planning meeting should be convened as soon as practicable by the District Manager of the area in which the care service is located. The urgency of this and responsibility for arranging and taking a detailed note of the meeting must be decided and recorded during the initial inter-agency inquiries. This meeting continues the initial inquiry process and will determine whether an investigation is necessary.

5.2 The meeting should be chaired by a district manager or equivalent who has: i) experience of Chairing Adult Support and Protection Case Conferences and/or has ii) attended training in Chairing Adult Support and Protection Case Conferences. The Chair will ensure that the meeting takes account of contract monitoring, quality assurance, inspection and commissioning issues where relevant in addition to adult support and protection concerns. The Chair of the meeting will identify the key agencies which require to attend. Participants should include those of a sufficiently senior level to contribute to decision making and resource allocation if necessary. The following should routinely be considered for invitation:

- Relevant Nominated Officers and Senior and/or Service managers including lead professionals, social work and health
- Detective Chief Inspector or delegated representative, Public Protection Unit
- Care Inspectorate Team Manager or their delegated representative
- Healthcare Improvement Scotland (if relevant health service is involved)
- Lead Adviser Adult Support & Protection
- Relevant health and social care team managers
- Lead Council Officer, if appointed
- Team Leader, Contracts
- General Practitioners
- Highland Council Legal Services, where relevant
- Representative(s) from any other local authorities who are funding Adults within the service concerned.
- The owner and/or manager of the service concerned (This must first be checked with police in terms of potential compromise to any investigation)
- Director of Adult Social Care (particularly in high profile situations)

Established local administrative arrangements to support formal Adult Protection processes should be implemented.

N.B. A member of the NHS Communications Team **may** be invited to the meeting however a decision can be made to brief Communications staff following the meeting. If a decision is made to invite the service manager for the service concerned, the Chair may identify a protected time for professional discussion during the meeting.

5.3 Attendees of this meeting will be referred to as the Planning Group. As a minimum local authority, police and health should be represented and the care inspectorate where appropriate. If senior managers are invited they may bring / delegate attendance to relevant managers involved in the investigation.

5.4 The role of GPs is seen as crucial to the process. GP attendance may be easier to facilitate where a particular practice has a contractual agreement to provide GP cover, as is the case for some care homes.

5.5 Where possible, information collated prior to the meeting should be made available to the meeting in writing. The use of a template to support the collation of information in respect of service users being cared for by an organisation is recommended.

5.6 A 'protected period' can be considered at the start of the meeting when particularly sensitive or confidential information can be shared. This may necessitate the exclusion of specific members of the group such as the owner/senior manager of the service.

5.7 The Planning Group will:

- Share information from all relevant key agencies including police/health/local authority/independent and third sector representatives and care inspectorate.
- Share available information from individual service users, families, friends, members of the community
- Identify and evaluate identified risks using relevant tools to support professional judgement
- Decide whether the definition of adult at risk is currently met for any individuals
- Determine whether to progress to a large scale investigation

5.8 If the decision is to proceed to a large scale investigation, the Planning Group will:

- Decide how to progress the investigation
- Decide what further information is required and how that will be gained
- Identify a Lead Council Officer and Lead Nominated Officer
- Agree an action plan to address risk management and protection, identifying key tasks to be undertaken, the persons responsible, and agreed timescales. This will include any immediate protective measure for individuals (where not already addressed)
- Decide whether there will be a suspension on new placements
- Consider the need for any individual Adult Protection case conferences and/or care reviews
- Provide clarity around parallel or joint investigations and roles within them, time and location of operational update meetings, feedback and communication mechanisms etc
- Ensure that the principles of the legislation are used to inform decisions
- Confirm the communications strategy involving the provider/ other placing local authorities and in relation to service users/carers/wider public (Appendix 5)
- Discuss provision of advocacy support

5.9 The Lead Adviser, Adult Support and Protection will retain a record of all Large Scale Investigations across Highland for Scottish Government's Adult Support and Protection Data Report. The relevant lead professionals must agree who is taking lead responsibility for the recording of any individual adult support and protection concerns on Care First in accordance with Care First procedures. This will not usually be relevant for every individual in a managed care setting or receiving services from a specific provider however the Adult Support and Protection element of Care First should be completed for those who are subject to individual investigation during a Large Scale Investigation. This process supports individual risk assessment and protection planning.

5.10 Consideration also needs to be given on a local basis as to how and where information about groups of individual service users gathered during the course of a Large Scale Investigation, including paper records are recorded and stored. All key LSI meeting records should be copied to the Lead Adviser, Adult Support and Protection.

5.11 Any staffing/resource issues that cannot immediately be resolved should discussed with the relevant Senior Manager. Where the concerns relate to criminal activity (or suspected criminal activity) the planning meeting will need to ensure that:

- An agreed action plan focuses on immediate protective measures required, **and**
- The action plan will otherwise be informed by the requirements of the Police conduct a criminal investigation in liaison with the Procurator Fiscal

5.12 Under the Act the host authority has responsibility for any Adult Support and Protection Investigation in its area, however the responsible manager from each funding authority must be notified of the planning meeting and information appropriate to the situation should be sent to them. The responsible manager of each funding authority shall notify their Chief Social Work Officer. The planning group will decide who will inform other local authorities funding residents within the care home, supported accommodation or similar of the result of the planning meeting if they have not been present.

5.13 If the planning group decides that all of an organisation's residents or service users need to be reviewed, the level and type of review should be clarified as well as the professionals who need to be involved and who will chair regular monitoring meetings. Where a number of residents are funded by another authority/health and social care partnership, it is customary for that body to undertake its own reviews. Once assessments / reviews have been undertaken by the appropriate professionals and any immediate risks have been addressed, then outstanding concerns should be discussed with the Lead Council Officer and Nominated Officer and reported back to the investigation review meeting.

5.14 Where other agencies are obliged to undertake investigations, these should be clearly identified at the outset. For example, the NHS, internal HR departments, Scottish Fire and Rescue Service, the Office of Public Guardian (OPG), the Care Inspectorate, Health Improvement Scotland (HIS), the Mental Welfare Commission (MWC), and Council Training Standards/Auditors departments.

5.15 Where a LSI relates to an adult at risk with a mental disorder or an adult who lacks capacity under the terms of the Adults With Incapacity (Scotland) Act 2000, consideration will be given to whether the Highland Council's MHO service, the MWC and/or the OPG require to be notified or to conduct further inquiries or investigations. NHS Highland is required to notify the MWC in specific circumstances which are outlined in the document *Notifying the Commission*, available at this link:
http://www.mwcscot.org.uk/media/100310/notifying_the_commission_nov_2013.pdf
The OPG has produced a document entitled: *Information for social workers on the investigation process*, available at this link:
http://www.publicguardian-scotland.gov.uk/docs/Information%20for%20Social%20Workers.doc

5.16 If, following risk assessment and analysis of the nature and degree of harm, the Planning Group decides a Large Scale Investigation is not required, the reason(s) for this decision must be recorded. Any further contingency or improvement actions which are required should be formulated. These should identify who is responsible for implementing the actions within an agreed timescale and also who is responsible for monitoring the action plan.

5.17 Where an investigation is agreed, an investigation review meeting will be required. This meeting must take place no later than 3 months following the Planning Meeting.

PART THREE - INVESTIGATION

1.1 It is NHS Highland's duty to co-ordinate the adult support and protection process. This may include making decisions with key partners around primary, parallel or joint investigation processes e.g. criminal and disciplinary investigations.

1.2 If the identified risks relate to the actions of a staff member or staff members within an organisation, then that organisation will be responsible for invoking its own disciplinary proceedings and ensuring that any immediate risks are removed or minimised.

1.3 If there is a criminal investigation, this will take priority over any disciplinary proceedings and the organisation should be advised accordingly. Consideration will be given to whether a criminal investigation can be conducted jointly with the Police. Where the organisation concerned contracts with NHS Highland to provide a service, then the Contracts Officer should advise the Planning Group of any indication that the provider may be in breach of contract.

1.4 Where possible it will be important to involve the owner/senior manager of the service under investigation throughout the process. If this does not seem appropriate e.g. it may potentially compromise the investigation, advice should be sought from the police. The Care Inspectorate may also have a role in keeping the manager appraised in terms of possible action under the Public Services Reform (Scotland) Act 2010.

1.5 Obtaining consent from an adult(s), for sharing information and/or passing on concerns (to the police for example) is a key issue. Where an adult does not give consent, consideration will need to be given to:

- The possibility that they may be experiencing undue pressure
- The risks to which other adults may be exposed by not sharing information and if Data Protection Act exemptions apply
- The adult's capacity at the time to make informed decisions.

1.6 Where criminality is suspected and there are concerns that other adults may be at risk, a report **must** be made to the Police.

1.7 Where there are ongoing concerns about an individual adult or adults, the presence of a concurrent Police or Care Inspectorate or other investigation should not delay the agreement and implementation of a protection plan for the adult/s at risk. If individual ASP Case Conferences are convened in relation to the current concerns, then local Adult Support and Protection Inter Agency Procedures will be followed by a relevant Council Officer and Nominated Officers.

1.8 Specialist advice should be sought where necessary to inform assessment of the needs and quality of service being delivered to individuals. This may include areas such as financial management, mental health issues, moving and handling, nutrition, hydration, medication management, dementia and/or tissue viability.

1.9 It may be that, during the course of an investigation, further information is received about a separate ASP concern. In these circumstances, there may be a need for an individual investigation and (where relevant) protection plan over and above any ongoing large scale investigation and action plan.

1.10 Once assessments/reviews have been undertaken by the appropriate professionals and any immediate risks have been addressed, then outstanding concerns should be discussed with the Lead Council Officer/Nominated Officer and reported back to an Investigation Review Meeting (or Initial Planning Meeting if assessments have been required urgently).

1.11 If a Significant Case Review is initiated, consideration should be given to:

- how the separate processes are linked;
- avoidance of witness contamination; and
- avoidance of duplicate information being collected.

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PART FOUR - MULTI-AGENCY REVIEW MEETING

1.1 A Review Meeting should be convened (and may have been scheduled at the Initial Planning Meeting) in order to review progress or conclude the investigation.

1.2 The Review Meeting will:

- Consider reports from investigating council officers, social workers, health professionals, the police, the Care Inspectorate and any other relevant information
- Ensure that appropriate risk assessments have been completed and risk management/protection plans are in place.
- Decide whether the large scale investigation should be stood down
- Agree any outstanding actions and date of next review (where required).

1.3 Where the review meeting has decided to stand down the Large Scale Investigation, any protection plans implemented for individual adults at risk should be continued and reviewed in line with standard local Adult Support and Protection procedures.

1.4 Large scale investigations may have wider implications for local and national policy and practice. Where these are identified by the review group but have not been dealt with through other processes (e.g. local management reviews, multi-agency Significant Case Reviews, etc), the review group should make recommendations, by way of an action plan, through the Lead Adviser, Adult Support and Protection to the Adult Support and Protection Committee.

1.5 A diagram outlining the large scale investigation procedure in brief is available at Appendix 3.

1.6 Concluded large scale investigations should trigger a final de-brief/review session for all involved professionals in order to ensure that lessons learned are captured and shared e.g. as described in 1.4

Appendix 1 IN BRIEF - LEGAL DEFINITIONS AND DUTY TO INQUIRE

Adult at risk

Under the Adult Support and Protection (Scotland) Act 2007 an 'adult at risk' is a person aged sixteen years or over who:

(a) is unable to safeguard their own well-being, property, rights or other interests;
(b) is at risk of harm, and
(c) because they are affected by disability, mental disorder, illness or physical or mental infirmity are more vulnerable to being harmed than adults who are not so affected.

All of above criteria must apply to class an individual as an *'adult at risk'.*

The presence of a particular condition does not automatically mean an adult is an 'adult at risk'. An individual may have a disability but be able to safeguard their well-being, property, rights or other interests; all three elements of this definition must be met. NB It is the entirety of an adult's particular circumstances which can combine to make them more vulnerable to harm than others.

Adult 'at risk of harm'.

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.

Definition of 'Harm'

In the Adult Support and Protection (Scotland) Act 2007, harm 'includes all harmful conduct' and, in particular, includes:-

(a) conduct which causes physical harm
(b) conduct which causes psychological harm (e.g. by causing fear, alarm or distress)
(c) unlawful conduct which appropriates or adversely affects property, rights or interests (for example: theft, fraud, embezzlement or extortion)
(d) conduct which causes "self-harm".

The harm can be accidental or intentional, as a result of self-neglect or neglect by a carer or caused by selfharm and/or attempted suicide.

DUTIES TO INQUIRE

Duty to inquire - Adult Support and Protection (Scotland) Act 2007

The 2007 Act states that a Council (NHS HIGHLAND) must make inquiries about a person's well-being, property or financial affairs if it knows or believes that the person is an adult at risk and that it might need to intervene in order to protect the person's well-being, property or financial affairs.

Section 10 Inquiry – Adults with Incapacity (Scotland) Act 2000

A Local Authority shall have the following general functions under this Act –

a) To supervise a guardian appointed with functions related to the personal welfare of an adult in the exercise of those functions
b) To consult the Public Guardian and the Mental Welfare Commission on cases or matters relating to the exercise of functions under this Act in which there is, or appears to be, a common interest
c) To receive and investigate any complaints relating to the exercise of functions relating to the personal welfare of an adult made:

    (i) In relation to welfare attorneys
    (ii) In relation to guardians or persons authorised under intervention orders

d) To investigate any circumstances made known to them in which the personal welfare of an adult seems to be at risk
e) To provide a guardian, welfare attorney or person authorised under an intervention order, when requested to do so, with information and advice in connection with the performance of his functions in relation to personal welfare under this Act.

Section 33 Inquiry – Mental Health (Care and Treatment) (Scotland) Act 2003

Duty to Inquire

1) Where it appears to a Local Authority that:

    (a) A person in their area who is 16 years or over has a mental disorder; and
    (b) Any of the circumstances mentioned in subsection 2) below apply

    The authority shall cause inquiries to be made in the person's case.

2) Those circumstances are:

    (a) That the person may be, or may have been, subject, or exposed at some place other than a hospital to:
        (i) Ill treatment;
        (ii) Neglect; or
        (iii) Some other deficiency in care or treatment

    (b) That because of the mental disorder, the person's property:

        (i) May be suffering, or may have suffered, loss or damage; or
        (ii) may be, or may have been, at risk of suffering loss or damage;

    (c) That the person may be:

        (i) Living alone or without care; and
        (ii) Unable to look after himself or his property or financial affairs;

(d) That the person is not in hospital and, because of the mental disorder, the safety of some other person may be at risk.

Appendix 2

Glossary of Terms

Appropriate Adult

Highland Appropriate Adult Service ensures appropriate adults are available to the police, to be utilised when the police are dealing with adults (those who have attained the age of 16 years) who experience, or are suspected of experiencing, a 'mental disorder'.

The services of an Appropriate Adult facilitates and eases communication with all categories of persons involved in the criminal justice system, i.e. victims, witnesses, suspects or accused persons.

Adult with Incapacity

A person aged 16 years and over who, because of a mental disorder or an inability to communicate due to physical disorder, lacks the capacity to make, communicate, understand or retain the memory of decisions relating to their welfare or finances.

Capacity

The ability to make an informed choice.

Care Inspectorate

The Care Inspectorate is the independent scrutiny and improvement body for care and children's services. It plays a significant part in improving services for adults and children across Scotland by regulating and inspecting care services and carrying out social work and child protection inspections. Care Services are required to register with the Care Inspectorate and will be the subject of regular inspection. The Care Inspectorate takes an active role in encouraging improvement in the quality of services and making information available to the public about the quality of these services. The Care Inspectorate also has a responsibility to investigate complaints it receives concerning any care service. The Care Inspectorate can take enforcement action under the Public Services Reform (Scotland) Act 2010.

Council Officer

The Adult Support and Protection (Scotland) Act 2007 defines a Council Officer as an individual appointed by the Council under Section 64 of the Local Government (Scotland) Act 1973. This was amended by The Community Care and Health (Scotland) Act 2002 (Incidental Provision) (Adult Support and Protection) Order 2012 to accommodate Highland's Lead Agency model of integration. The amendment reads:

'The order applies only where any function under part 1 of the ASP Act has been delegated by a local authority to an NHS body by virtue of arrangements made under section 15(1) of the Community Care and Health (Scotland) Act 2002. Where such delegation has taken place, any reference to a 'council officer' under Part 1 of the ASP Act is to be read as including a reference to an employee of the relevant NHS body. Similarly, any reference to a 'council nominee' under Part 1 of the ASP Act is to be read as

a reference to a nominee of the NHS body.

A Council Officer is authorised to fulfil the functions under Sections 7,8, 9, 10,11, 14, 16 and 18 of the Adult Support and Protection (Scotland) Act 2007.

The person will need to be employed by the relevant Council (NHS body) and must be:

(a)
- Registered in the part of the register maintained by the Scottish Social Services Council (SSSC) in respect of Social Service Workers,
- Registered as an occupational therapist in the register maintained under Article 5(1) of the Health Professionals Order 2001, or
- a nurse, and

(b) Have at least 12 months post qualifying experience of identifying, assessing and managing adults at risk.

Health Professional

A 'Health Professional' for the purposes of the Act is (a) a doctor, (b) a nurse, (c) a midwife, or (d) any other type of individual described (by reference to skills, qualifications, experience or other use) by an Order made by the Scottish Ministers. The definition of doctor, nurse and midwife is as specified under their respective professionals Acts, i.e. Medical Act 1983 and Nurses & Midwives Order 2001.

Health Records

These are any records, in any format, which relate to an individual's physical or mental health which have been made by or on behalf of health professionals in connection with the care of the individual.

Independent Advocate

A member of an advocacy service which operates independently of other service providers. Advocacy is about safeguarding individuals who are in situations where they are at risk of harm and who may not be being heard. Advocacy involves speaking up for individuals, helping them to express their views and assisting them to make their own decisions and contributions.

Mental Health Officer

A local authority social worker who has undergone specific post qualifying accredited training in mental health legislation and practice. The MHO has delegated powers under such legislation to act in conjunction with medical practitioners in the compulsory treatment of individuals with mental disorders.

Mental Disorder

The Mental Health (Care and Treatment) (Scotland) Act 2003 defines "Mental Disorder" as: Any mental illness, personality disorder or learning disability, however caused or manifested. Appropriate Adult guidance specifically includes people with acquired brain injury, autistic spectrum disorder and people

suffering from dementia. It does not include those temporarily impaired through alcohol or drugs.

Undue Pressure

A Sheriff cannot make a Protection Order under the Act if he/she knows that the affected adult at risk has refused to the granting of the Order UNLESS the Sheriff reasonably believes that the adult has been "unduly pressurised" to refuse consent and there are no steps which could reasonably be taken with the adult's consent which would protect the adult from harm. Undue pressure is where it appears that harm is being, or is likely to be, inflicted by a person in whom the adult has confidence and trust and that the adult at risk would consent if they did not have confidence and trust in that person.

Undue pressure is also relevant where the adult at risk is afraid of or being threatened by another person. The likelihood of undue pressure being brought to bear should always be considered when the adult at risk refuses to give consent.

Whistle Blowing

A means by which staff can safely raise their concerns within their organisation about matters of suspected or actual malpractice. This allows an individual to by-pass the formal line management arrangements if necessary.

Appendix 3

LARGE SCALE INVESTIGATION PROCEDURE

RECEIVE CONCERN

- Report concerns in care setting to Nominated Officers & District Managers
- Nominated Officers and lead managers determine whether LSI (or individual ASP investigations) may be required and make initial inquiries
- Take action to safeguard adults if they are at immediate serious risk
- Record decisions

INITIAL INQUIRY

- Inform & seek intelligence from Care Inspectorate/Healthcare Improvement Scotland/Contracts Team/Lead Adviser ASP/Health & Social Care Teams/Police
- If LSI is appropriate, arrange planning meeting for invited group
- Record decisions

PLANNING MEETING

- Assess known risks and consider proportionate actions and protection plan
- Determine how to inform/keep informed service users, carers, families and partner professionals
- Identify Lead Council Officer and other staff for investigation as appropriate
- Record decisions

INVESTIGATION

- Maintain communication with investigation partners, agreeing priority of different strands of investigation e.g. police, disciplinary
- Ensure issues of consent, capacity and undue pressure are addressed
- Consider the importance of providing advocacy to service users
- Record findings

REVIEW

- Consider reports from investigating council officers, social workers, health professionals, the police, the Care Inspectorate and any other relevant information
- Ensure risk assessments arecompleted and management/protection plans in place
- Determine whether LSI is still required
- Agree outstanding actions and date of next review if relevant
- Record decisions

Appendix 4	**IMPACT ASSESSMENT**
The circumstances leading to a Large Scale Investigation and the investigation itself will have an impact on a number of people and services. This template should be used to record the planning group's assessment of that impact, and any actions required. It should include any specific support required, for example to a referrer or to staff in a care home, any resource implications for the investigation, and any legal implications. A media strategy should also be considered and completed as necessary.	

Impact On	Y/N	Nature of Impact	Detail Action required	Who by	Timescale
Service Users					
Relatives/Carers					
Staff of service being investigated					
Referrer / Whistleblower					
Ongoing provision of service					
Health & Social Work service (resources)					
Other NHS Highland services e.g. Contracts					
Care Inspectorate					
Police					
Local community					
Staff involved in investigation					
Advocate					
Other					

Appendix 5 **MEDIA STRATEGY**

Any Large Scale Investigation may trigger media attention and preparation for this is useful. In completing this media strategy consideration should be given to agreeing an 'if asked' statement with senior health & social care managers including Director of Adult Social Care, District Manager and communications team. Thought might also be required with regards to response (via communications team) to social media issues.
NB No members of staff should deal with enquiries from the media. Enquiries should be referred to communications teams in statutory agencies

Communication with	Y/N	Who by	Timescale	Agreed Statement
Director of Adult Social Care/ Director of Operations				
District/Area Manager				
Lead Nurse				
Public Protection Unit				
Comms Team NHS				
Comms Team Highland Council				
Comms Team Police Scotland				
Service Users/Families/Carers				
Other (Care Inspectorate / MWC / OPG)				
Other Local Authorities				
Care Establishment Organisation / Body				

Appendix 6

LARGE SCALE INVESTIGATION PLANNING MEETING

Agenda

1. Introductions and apologies.
2. Recording arrangements.
3. Information currently available from each agency and any reports received.
4. Summary of concerns and current situation.
5. Do adults qualify as 'adults at risk of harm'.

   The Act defines an 'adult at risk' as a person aged 16 years or over who:

   - *is unable to safeguard her / his own well-being, property, rights or other interests; and*
   - *is at risk of harm; and*
   - *because they are affected by disability, mental disorder, illness or physical or mental infirmity are more vulnerable to being harmed than adults who are not so affected.*

6. Is a Large Scale Investigation required?
   A Large Scale Investigation will normally be appropriate in situations where multiple service users are considered to be adults at risk of harm
7. Investigation planning *(to include identification of key roles and coordination arrangements, proposed actions, advocacy, information for service users/carers)*
8. Any immediate actions that need to occur to safeguard service users
9. Any notification requirements to other agencies/organisations e.g. Office of the Public Guardian, Mental Welfare Commission
10. Impact assessment
11. Media strategy
12. Date of review meeting