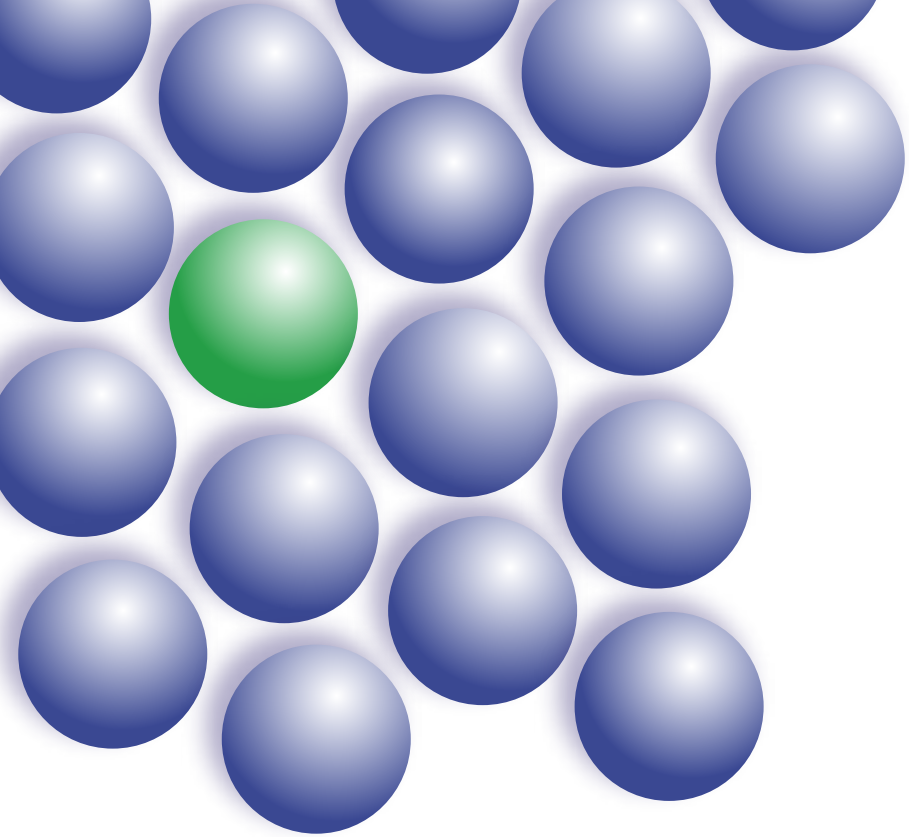

Protecting
Vulnerable Adults in Tayside

Dundee City Council

PERTH & KINROSS COUNCIL

NHS Tayside

Angus Council

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Foreword

This Multi-Agency Protocol represents the commitment of agencies within Tayside to:

- *unite in the prevention of and protection from abuse, mistreatment and neglect of vulnerable people aged 16 years and over;*
- *ensure situations of actual or suspected abuse, exploitation, mistreatment and neglect are identified, recorded and investigated; and*
- *provide services and support for vulnerable adults who are experiencing abuse.*

All agencies have an essential role to play in ensuring that vulnerable adults are protected from abuse, mistreatment or neglect. Agencies have a responsibility to assess the risk of abuse, mistreatment or neglect, to work together alongside the vulnerable adult and his or her family members and care givers, to identify actual abuse and reduce the risk of harm. To achieve this requires a clear understanding of the roles and responsibilities of the organisations and agencies involved directly and indirectly in caring for vulnerable adults. Good communication, co-operation and liaison between agencies are essential, as are clear procedures which promote the interests of vulnerable adults, their families and caregivers.

This Protocol will be used throughout Tayside to guide and inform local inter-agency procedures and practice concerning the protection of vulnerable adults.

It provides a framework which will:

- *put vulnerable people themselves at the centre of the protection process;*
- *enable workers to recognise when vulnerable people may be at risk of abuse, mistreatment or neglect;*
- *explain how assistance and services can be provided;*
- *clarify the current legal position;*
- *ensure the use of appropriate channels for assessment of need and investigation; and,*
- *promote positive collaborative working;*
- *establish a framework for Case Conferences, Protection Plans, risk monitoring and review;*
- *set our requirements for recording and communicating information.*

It acknowledges the complexity involved in the protection of vulnerable people and is underpinned by the need to respect each adult's right to make decisions about issues such as where and with whom they live. It also recognises that assessments need to take into account the capacity of vulnerable people to make decisions or exercise control to protect themselves.

It has been developed through a consultation process by lead agencies within Tayside and will continue to be reviewed and consulted on to ensure that it remains relevant and instrumental in promoting effective working.

Partners

The agencies that have been involved in the preparation of this protocol are:

Tayside Police

NHS Tayside

Angus Council

Dundee City Council

Perth & Kinross Council

Those involved have drawn on the Lothian and Borders Joint Guidelines: Protecting Vulnerable Adults: Ensuring Rights and Preventing Abuse (Issue Number One - 2003) and the SWSI Report of the Inspection of Scottish Borders Council Social Work Services for People Affected by Learning Disabilities (April 2004) in its preparation.

Chief Executive
Angus Council

Chief Constable
Tayside Police

Chief Executive
Dundee City Council

Chief Executive
NHS Tayside

Chief Executive
Perth & Kinross Council

Multi-Agency Protocol

Introduction 1.1

Most adults and older people with mental illness, physical or learning disabilities or other special needs manage to live their lives comfortably and securely either independently or with assistance from caring relatives, friends, neighbours, professionals or volunteers. However, for a small number, dependence on someone may lead to abuse, exploitation, conflict, mistreatment or neglect.

There is growing public awareness of abuse as a concern, evidenced by media coverage of individual incidents and public inquiries dealing with instances of abuse.

Demographic factors indicate a growth in the population of older people particularly people of 90 years and over. This means that the population of potentially vulnerable people will continue to grow in the coming decades.

The development of services to adults has created a more enlightened and empowering climate which offers users choice and participation in making decisions about their own lives. This also implies a dispersal of care within the community, increasing reliance on informal carers and an expansion of the scope of responsibility of formal carers. This in itself may also involve an increase in risk as the venues in which people are cared for become more varied.

Safeguarding vulnerable adults is clearly a high priority for the Government but the key to ensuring vulnerable individuals are appropriately supported and cared for lies

with the empowerment of the individual and their carers, a knowledge of what can be expected, a knowledge of their own individual rights and access to a responsive complaints and advocacy service. The introduction and implementation of National Care Standards, sound recruitment practices and the provision of appropriate training for those involved in care services are all important measures which will help to ensure that workers are trained, supported and enabled to work together to create a positive and empowering ethos within care settings.

This *Protocol* acknowledges the complexities which surround adult abuse. It is not possible to cover all eventualities but it is hoped that the guidance within will prove useful to those working in the field of health and social care as they work towards the protection of vulnerable adults. Local authorities and agencies have their own operating procedures to which staff should refer for localised and detailed guidance. Staff members should also comply with their professional Codes of Conduct/Practice. Further details of the roles and responsibilities of staff members and agencies can be found in Appendix 1.

When Should This Protocol Be Used?

This *Multi-Agency Protocol* applies to:

- *all vulnerable people aged 16 and over;*
- *all relevant health, social care, community and criminal justice agencies;*
- *all forms of abuse as defined within this protocol.*

Appendix 2 provides a glossary of terms used in the protocol.

Definitions 1.2

(a) What is Abuse?

The following definition of abuse has been agreed:

Abuse is a single or repeated act, or a lack of appropriate action, which has caused, or is causing, harm or distress to an individual. Abuse can occur within a relationship or a service setting where there is an expectation of trust.

Whether abuse occurs in institutions or in the home, it involves the elements of a power imbalance, exploitation and the absence of full consent. It involves acts of omission and commission.

Abuse is a violation of an individual's human and civil rights by another person or persons.

(b) Types of Abuse

The following are the main types of abuse:

1. ***Physical Abuse*** *- actual or attempted physical injury inflicted non-accidentally to a vulnerable adult (including spitting, hitting, slapping, pushing, kicking), misuse of medication or drugs (including depriving someone of prescribed or non-prescribed drugs, or giving the person dangerously large amounts of drugs and/or alcohol) and inappropriate restraint or sanctions.*

2. ***Sexual Abuse*** *- including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, could not consent or was pressured into consenting. It should be noted that it is a criminal offence under the Mental Health Act for someone to have sexual relations with an adult in their care who suffers from mental disorder.*

3. ***Psychological Abuse*** *- including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.*

4. ***Financial or Material Abuse*** *- including theft, fraud, exploitation, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions or benefits.*

5. ***Neglect and Acts of Omission*** *- including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, failure to share appropriate information, the withholding of the necessities of life, such as medication, adequate nutrition and heating.*

6. ***Discriminatory Abuse*** *- actions (or omissions) and/ or remarks of a prejudicial nature focusing on a person's age, gender, disability, race, colour, sexual or religious orientation.*

7. ***Human Rights Abuse*** *- including right to liberty and security (Article 5); right to a fair hearing (Article 6); right to respect for private and family life (Article 8); freedom of thought, conscience and religion (Article 9); freedom of expression (Article 10); right to marry*

(Article 12); prohibition of discrimination (Article 14); prohibition of abuse of rights (Article 17) and protection of property (Article 1 of the first protocol).

8. ***Institutional Abuse*** *- repeated instances of poor care or unsatisfactory professional practice.*

Any or all of these types of abuse may be perpetrated as the result of deliberate intent, negligence or ignorance. This is not an exhaustive list of the types of abuse which can affect vulnerable adults. Abuse, mistreatment or neglect may occur as a result of specific incidents. However, concern may grow over a period of time and an accumulation of concerns may prompt a response in line with the contents of this protocol.

(c) Who is a Vulnerable Adult?

The following definition has been agreed:

A person 16 years or over who is, or may be, disadvantaged by physical or emotional frailty, old age, intellectual impairment caused by a disabling condition or illness, mental illness (including dementia) or other mental health problems; ***and*** *who is, or may be, unable to take care of him or herself, or is unable to protect him or herself against significant harm or exploitation.*

(Who Decides, Lord Chancellor's Department, 1997)

All adults could be considered potentially vulnerable from time to time but this guidance focuses on those who, for reason of ill health, disability, frailty or special circumstances, depend on others to provide and promote their well being and/or protection.

An adult aged between 16 to 18, may still be legally defined as a child if they are subject to a current supervision requirement issued by a Children's Hearing. It is essential that these young adults receive appropriate support from both Children's Services and relevant adult based services.

(d) Who is a Carer?

A formal carer or care worker is contracted to work by an employer eg

- *Home Care/Personal Care Workers*
- *Care Homes (Residential and Nursing Home Staff)*
- *Sitters*
- *People employed within the NHS, Day Centres etc*
- *Support worker employed by a Voluntary Organisation*

An informal carer is someone who, without pay, provides care, help and assistance to someone else who is disabled, frail or unwell and may be a spouse, relative, family member, neighbour or friend.

(e) Who May be the Abuser?

Vulnerable adults may be abused by a wide range of people including relatives and family members, professional staff, paid care workers, volunteers, other service users, neighbours, friends and associates, people who deliberately exploit vulnerable people and strangers.

There is often particular concern when abuse is perpetrated by someone in a position of power or authority who uses his or her position to the detriment of the health, safety, welfare and general well being of a vulnerable person.

Agencies not only have a responsibility to all vulnerable adults who have been abused but may also have responsibilities toward agencies/people with whom the perpetrator is employed or works as a volunteer.

The roles, powers and duties of the various agencies in relation to the perpetrator will vary depending on whether the latter is:

- *a member of staff, proprietor or services manager;*
- *a member of a recognised professional group;*
- *a volunteer or member of a community group such as a place of worship or social club;*
- *another service user;*
- *a spouse, relative or member of the person's social network;*
- *a formal or informal carer;*
- *a neighbour, member of the public or stranger;*
- *a person who deliberately targets vulnerable people in order to exploit them; or,*
- *a person with mental health difficulties including behaviour disorders, personality disorders, munchausens, dysmorphia and self abuse.*

Information Sharing and Confidentiality 1.3

All professionals and agencies offering support or services to vulnerable people are required to keep confidential information given to them in the course of their work. All professionals and agencies should keep clear, legible and up to date records of:

- *contact with the vulnerable person, and his/her family/ carer(s);*
- *information held and consents on information sharing;*
- *assessment and care planning, including adult protection plans, and any changes as a result of reviews of these;*
- *contact with other agencies, including the date and content of information shared or discussions held; and*
- *details of the person making the record with dates of recordings.*

Disclosure of personal information is governed by the Data Protection Act 1998 and its accompanying guidance.

Personal data covers both facts and opinions about a living individual, which might identify that person. The provisions of the Act ensure that personal information held about any individual cannot be used for purposes other than for which it was originally supplied without the individual's consent. This prevents unauthorised disclosure of a wide range of information.

There are several important exceptions to this set out in the Act and related guidance. These enable data to be disclosed to safeguard national security, to prevent or assist in the detection of a crime or to protect the vital interests of the person. This means that information given to professionals by their patient, client, or service user should not be shared with others without the person's permission unless the safety of the person or other vulnerable people may otherwise be put at risk.

All agencies working with vulnerable adults should have in place an information sharing policy which makes clear how issues of confidentiality are to be managed.

All agencies working with vulnerable adults must ensure that clients/patients/service users are:

- *informed of information sharing policies;*
- *asked what information they are to willing to have shared freely;*
- *advised of the circumstances in which information will be shared without their consent, if necessary (where there is risk of death, serious harm or neglect).*

When any professional or agency approaches another to ask for information they should be able to explain:

- *what kind of information they need;*
- *why they need it;*
- *what they will do with the information; and*
- *who else may need to be informed, if concerns about a vulnerable adult persist.*

If a professional or agency is asked to provide information they should never refuse solely on the basis that all the

information held by the agency is confidential. When determining whether to share information they should consider:

- *whether there is any perceived risk to a vulnerable adult which would warrant breaking confidentiality;*
- *what information the service user has already given permission to share with other professionals;*
- *whether they have relevant information to contribute - that is information which has, or may have, a bearing on the issue of risk to a vulnerable adult or others which would enable another professional to offer appropriate help, assist access to other services, or take other action necessary to reduce the risk to the vulnerable adult;*
- *whether that information is confidential, already in the public domain or could be better provided by another professional or agency, or the vulnerable adult directly;*
- *how much information needs to be shared to reduce the risk to the vulnerable adult; and*
- *whether disclosure would be in accordance with the Data Protection Act 1998.*

Information ***must*** be shared when there is any perceived risk to a vulnerable adult from which they might require protection involving the partner agencies. When concerns about a vulnerable adult's safety or welfare require a professional or agency to share confidential information without a person's consent, they should tell the person that they intend to do so, unless this may place the vulnerable adult, or others, at greater risk of harm. They should tell him or her what information they will disclose and to whom. The professional should consider carefully all potential consequences for the vulnerable adult's welfare before making a final decision about whether or not to provide information requested. He or she should record the

information which has been shared, with whom and the reasons for the decision carefully. The professional or agency may subsequently have to justify their disclosure, or refusal to share relevant information, to a court, commission, professional body or other forum.

The Cross Boundary Working Group representing all three councils who are signatories to this protocol and NHS Tayside have agreed the contents of General Protocol for Sharing Information (June 2003). The document provides *"a framework for the secure and confidential sharing of information between organisations to enable them to meet the needs of citizens for care, protection and support in accordance with legislative requirements".* It also informs *"customers or patients of the organisations who are party to the protocol of the reasons why information about them may need to be shared and how this sharing will be managed".*

Staff members should make themselves aware of the content of the General Protocol for Sharing Information (June 2003) and any information sharing/confidentiality policies, protocols and procedures produced by their own agency.

Health staff are governed by particular guidance which places a requirement on staff to breach patient confidentiality under certain circumstance. Section 5 of the NMC Code of Professional Conduct provides the detail and guidance should be sought from the Director of Nursing.

It should be noted that, as a regulator, the Care Commission has exemptions under the Data Protection Act and may require information to be shared outwith the stated parameters.

Sharing Information with Relatives and Carers

Those involved in working with vulnerable adults may also have to consider whether or not to share information with carers or relatives of the vulnerable person. In general terms information given to professionals by the vulnerable adults, or acquired during an investigatory process, should not be shared with others without the person's permission unless the safety of the person or other vulnerable people may otherwise be put at risk. The professional should consider carefully all potential consequences for the vulnerable adult's welfare before making a final decision on whether or not to disclose information. All decisions, along with reasons, must be recorded.

Those for whom this is an issue should refer to their agency's protocol on information sharing for more detailed guidance.

2.1 In What Circumstances May Abuse, Mistreatment or Neglect Occur?

Abuse, mistreatment or neglect can take place in any context.

Abuse, mistreatment or neglect may occur when a vulnerable adult lives alone or with a relative. It may also occur within nursing, residential or day care settings, in hospitals or custodial situations, as a result of support services provided in people's own homes, and other places previously assumed safe, or public places.

What is done as a result of a suspicion or allegation of abuse, mistreatment or neglect will be partly determined by the environment or the context in which the abuse, mistreatment or neglect has occurred, is thought to have occurred or is likely to occur. Assessment of the environment, or context, is relevant because exploitation, deception, misuse of authority, intimidation or coercion may render a vulnerable adult incapable of making his or her own decisions. It may, therefore, be important for vulnerable adults to be removed from the influence of the abusive or neglectful person, or setting, in order to be able to make a free choice about how to proceed. An initial rejection of help should not always be taken at face value.

Patterns of Abuse, Mistreatment or Neglect 2.2

Patterns of abuse, mistreatment or neglect vary and include:

- *serial abuse in which the perpetrator seeks out and 'grooms' vulnerable individuals. Sexual abuse often falls into this pattern as do some forms of financial abuse;*
- *long term abuse in the context of an ongoing family relationship such as domestic violence or abuse between partners or generations;*
- *situational abuse which arises because pressures have built up and/or because of difficult or challenging behaviour;*
- *neglect of a person's needs because those around him or her are not able to be responsible for his or her care, for example if the carer has difficulties attributable to such issues as debt, alcohol or mental health problems;*
- *institutional abuse which features poor standards of care, lack of positive responses to complex needs, rigid routines, inadequate staffing and an insufficient knowledge base within the service;*
- *unacceptable 'treatments' or programmes which include sanctions or punishment such as withholding food and drink, seclusion, unnecessary and unauthorised use of control and restraint (see Harris et al, 1996) or over-medication;*

- *failure to access key services such as health care, dentistry, prostheses;*
- *misappropriation of benefits and/or use of the person's money by other members of the household;*
- *fraud or intimidation in connection with wills, property or other assets.*

Signs of Potential Abuse, Mistreatment or Neglect 2.3

Suspicions of adult abuse or neglect can come to light in a number of ways. The clearest indicator is a statement or comment by the adult themselves, by their regular carer or by others, disclosing or suggesting abuse or neglect. Such statements invariably warrant further action, whether they relate to a specific incident, a pattern of events or a more general situation. There are of course many other factors which may indicate abuse or neglect. These may include:

- *unusual or suspicious injuries;*
- *unusual or unexplained behaviour of carers including a delay in seeking advice, dubious or inconsistent explanations for injuries or bruises;*
- *an allegation of abuse made by a vulnerable adult;*
- *a vulnerable adult found alone at home or in a care setting in a situation of serious but avoidable risk;*
- *over-frequent or inappropriate contact/referral to outside agencies;*
- *a prolonged interval between illness/injury and presentation for medical care;*
- *if the vulnerable adult lives with another member of the household who is known to the Police or welfare agencies in circumstances which suggest possible risk to the life/health or well-being of that person;*

- *signs of misuse of medication:*
  - (a) *not administered as prescribed;*
  - (b) *over-medication resulting in apathy, drowsiness, slurring of speech,*
  - (c) *under-medication resulting in lack of sleep, continual pain, etc;*
- *sudden increases in confusion (eg dehydration produces toxic confusion);*
- *unexplained physical deterioration in the vulnerable adult (eg loss of weight);*
- *demonstration of fear by the vulnerable adult to another person/also demonstration of fear of going home;*
- *difficulty in interviewing the vulnerable adult (eg another adult unreasonably insists on being present);*
- *anxious or disturbed behaviour on the part of the vulnerable adult;*
- *hostile or rejecting behaviour by the carer towards the vulnerable adult;*
- *serious or persistent failure to meet the needs of the vulnerable adult;*
- *signs of financial abuse (eg a change in the ability of the vulnerable adult to pay for services, unexplained debts, or reduction in assets);*
- *carer as well as dependents showing apathy, depression, withdrawal, hopelessness and suspicion;*
- *unnecessary delay in staff responses to residents' requests;*
- *important documents are reported to be missing;*
- *pressure exerted by family members or professionals to have someone committed to care;*

- *a diagnosis of a sexually transmitted disease or infection, or a pregnancy, particularly where the vulnerable individual concerned is not known to be in an intimate or stable relationship.*

Dilemmas in Adult Protection 2.4

The protection of adults, like the protection of children, raises a variety of complex issues. There may be a number of conflicts which must be considered. Some of these are discussed in more detail below.

(a) Duty to Report

Staff have a duty to report suspicions or disclosures made about any vulnerable adults. While this may cause the individual staff member difficulties, a failure to report is a failure in their duty of care. Staff ***must*** report any concerns of suspected or actual abuse to their line manager.

(b) Rights and Self Determination

There is a tendency for society to believe that vulnerable adults need to be protected and that their right to choose is secondary to this. Adults are individuals in their own right and, if they are able, must be allowed to exercise these rights even if that means they choose to remain in a situation which other people consider to be inappropriate or abusive. Every effort should be made to inform the vulnerable adult of the consequences of the choice he/she may be making. Where appropriate, use should be made of the local appropriate adult scheme,

an independent advocate, communication aids or interpretation services. Working with vulnerable adults, as opposed to vulnerable children, poses greater dilemmas for staff involved. If a vulnerable adult has capacity and is at risk - there is at present no legislative basis upon which to intervene if he/she refuses help. If it is thought that the vulnerable adult may have been the victim of a crime, for example assault, then he or she is subject to common law and the matter should be reported to the police even if the vulnerable adult does not wish to make a complaint.

(c) Consent/Confidentiality/Disclosure

All professionals who have contact with vulnerable adults have a responsibility to refer concerns/anxieties/disclosures to the appropriate agency. However, it should be recognised that, at times, this may pose a dilemma for staff who may feel that by so doing this could alienate the individual and/or the family and the potential for preventative work. To do nothing or to promise confidentiality and then report the concern is not acceptable. The recommended procedure is to openly and honestly discuss with the individual and/or family the intention to report the information given and to advise them of the possible consequences.

(d) Managing Risk

Concern over risk taking can stifle and constrain providers of care leading to an inappropriate restriction of the individual's rights. There is a challenge for people working in all care settings to define a way forward where they are able to take calculated acceptable risks and to allow risks to be taken.

(e) Whistle Blowing

All organisations must have a policy on *'whistle blowing'* in place, allowing staff to alert organisations to matters of suspected or actual malpractice. Such policies should provide guidance, protection and reassurance to staff in order to encourage disclosures. This protocol encourages such disclosures, which are supported by legislation and organisational policies and procedures. (For further details see the Public Interest Disclosure Act or visit Public Concern at Work's website at www.whistleblowing.org.uk) All of the partners are committed to the concept of whistle blowing and to supporting staff who report unacceptable treatment of service users by managers or staff.

(f) Challenging Behaviour/Use of Restraint Techniques

There are some vulnerable adults who present challenging behaviour which requires to be managed either in their own home, day care setting, hospital or care home. This brings with it a number of dilemmas including issues of restraint and the administration of medication. Any action undertaken to manage an adult with challenging behaviour could be misinterpreted, potentially leading to an allegation of abuse, therefore these issues require to be carefully assessed and recorded appropriately.

Organisations will have practice guidelines in place to assist staff members who work in settings where challenging behaviour is likely to be a feature. The decision to invoke any form of restraint should not be made by a single individual and as much collaboration as

is appropriate should be undertaken. There should also be some on-going monitoring and reviewing of a decision to undertake any form of restraint. As people with increasingly complex needs require on-going care, the prevalence of challenging behaviour is likely to increase. It is not possible to cover this degree of complexity in guidelines of this nature other than to pose it as another dilemma which requires to be faced in the field of adult protection.

It is acknowledged that, in the course of their duties, staff may be assaulted, and in these circumstances have a right to defend themselves. Appropriate training and support should be available to staff. Incidents of violence and aggression or the use of restraint should be recorded using agency guidelines.

(g) Allegations of Abuse Against Staff Members

When an allegation of abuse is made against a member of staff either formally by letter, or informally by telephone or in person, it is essential that organisations regard it seriously and initiate an investigation into the staff member's alleged behaviour through the organisation's own conduct procedures. The process would have to accord with any parallel investigation into the alleged abuse. Consultation with the organisation's Human Resources/Personnel Section or equivalent and the line manager at an early stage is vital to determine the appropriate routes for such matters to be taken. In the absence of an organisation's own Human Resources section or equivalent, it is advisable to make contact with the relevant local authority's Human Resources/ Personnel Section.

(h) Domestic Abuse

Domestic Abuse is not specifically covered in this guidance. It is, however, recognised that the use of the guidance may well be appropriate in certain cases of domestic abuse. It will be particularly relevant when one of the partners has recognised special needs and should be referred to when 'vulnerability' as defined in section 1.4(c) is a factor. Use of the Step by Step Guide may have some relevance and reference to the Appropriate Adult Scheme (Appendix 5) will be useful.

What Degree of Abuse, Mistreatment or Neglect Justifies Intervention? 2.5

In determining what degree of abuse, treatment or neglect justifies intervention, The Law Commission suggests that:

> *"'harm' should be taken to include not only ill treatment (including sexual abuse and forms of ill treatment which are not physical) but also the impairment of, or an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development"*

The seriousness or extent of abuse is often not clear when anxiety is first expressed. It is important, therefore, when considering the appropriateness of intervention, to approach reports of incidents or allegations with an open mind.

In making any assessment of seriousness the following factors need to be considered:

- *the **vulnerability** of the individual;*
- *the **nature and extent** of the abuse;*
- *the **length of time** it has been occurring;*
- *the **impact** on the individual; and*

- *the risk of **repeated or increasingly serious** acts involving this or other vulnerable adults.*

Links to Other Agencies Operational Procedures 2.6

This protocol should be read in conjunction with localised policies and operating procedures used by agencies.

(a) Local Authorities

All three local authorities have their own operating procedures. These are based on this protocol but allow for local structures, roles and responsibilities.

(b) NHS Tayside

A procedure is available for NHS Tayside staff which identifies the steps to be taken by Health employees on the identification of abuse. This procedure details the occasions when contact should be made with Local Authority Social Work staff and the steps to be taken. There is an understanding that, where the vulnerable adult is in a residential home or based in the community, Social Work will be the lead agency responsible for any investigatory process.

(c) Tayside Police

Tayside Police provides a service across Tayside. When police officers are alerted to suspicions of abuse, mistreatment or neglect, a full inquiry will be made into the suspicions or allegations. All investigations will be conducted in accordance with Tayside Police procedural guidance.

(d) Social Work Out of Hours Service

The Out of Hours Service provides a service across Tayside. When staff within this section are alerted to abuse reference should be made to this protocol and the relevant Local Authorities Operational procedures.

(e) Local Authority Social Work Procedures – Disciplinary Procedures

Each Local Authority Social Work Department will have specific disciplinary procedures which will be instigated whenever a staff member of the local authority is suspected or accused of abuse. Local authority members should make contact with their relevant Personnel Departments as soon as any accusation or evidence is identified.

(f) Codes of Practice/Conduct

All agencies covered by this protocol have their own codes of practice or conduct. Those who provide services, which require to be registered by the Care Commission, will also be governed by the codes of

Practice for Employers and Employees of the Social Services Workforce. A code of practice/conduct will usually include the expectations of the agency as an employer and of its staff as professional service providers or practitioners. Staff members should ensure that they carry out their duties in line with their professional code of practice/conduct. Voluntary and private providers will have their own procedures but will be bound in to the Protocol by agreement and contract.

Ordinary Residence 2.7

If the vulnerable adult lives, or is temporarily placed, outwith Tayside's geographical boundary but Angus, Dundee City or Perth & Kinross Council have responsibility for the placement:

- *The protocol that operates within the local authority where the abuse, mistreatment or neglect occurred will apply; and*
- *Angus, Dundee City or Perth & Kinross Council must allocate a social worker to support the vulnerable adult.*

If the vulnerable adult lives within Tayside but another local authority has responsibility for the placement:

- *Tayside's protocol will apply;*
- *an investigating officer will be allocated from the relevant investigating agencies within Tayside; and*
- *a referral will be made to the relevant social work team within the placing authority for a social worker to support the vulnerable adult.*

Young adults who are care leavers, or who have been children with special needs, and are still in receipt of full time education remain the responsibility of the children and families service. Young adults, who are 16 -18, and are subject to statutory supervision, also remain the responsibility of the children and families service. Liaison should take place with the relevant children and families team and a decision taken as to who will investigate.

Notification of Serious Incidents and Sudden Death Inquiries 2.8

Local Authority Social Work Services have procedures in place regarding the reporting of serious incidents. **The abuse of a vulnerable adult is considered to be a serious incident** and the steps outlined in the relevant procedure should be followed including, where appropriate, the submission of a report to the Mental Welfare Commission.

NHS Tayside has a procedure on Adverse Significant Incidents. This procedure requires an investigation into the circumstances surrounding such incidents, both actual and near miss, with a positive list of actions to be taken to prevent recurrence as the main objective.

A "sudden death" is regarded as a death resulting from violence, suicide and unknown or suspicious causes. All deaths of this nature must be investigated by the police and a detailed report of the circumstances submitted to the Procurator Fiscal.

The manager of any regulated service should provide information to the Care Commission under the "Notification of Serious Incidents" procedures. Failure to do so may be an issue of fitness affecting registration.

Resolving Disagreements 2.9

Angus, Dundee City and Perth & Kinross Councils along with Tayside Police and NHS Tayside will ensure multi-agency and multi-disciplinary co-ordination of complex cases at a sufficiently senior level to provide appropriate management oversight, effective information sharing and accountable practice. Arrangements should include a mechanism for the articulation and resolution of disputes among staff.

Principles of Practice 2.10

In practice use of the guidance contained in this protocol means that agencies should:

- *actively work within the principles defined in national care standards: dignity, privacy, choice, safety, realising potential, equality and diversity;*
- *actively work together within an inter-agency framework;*
- *actively promote the empowerment and well-being of vulnerable adults through the services they provide;*
- *act in a way which supports the rights of the individual to lead an independent life based on self-determination;*
- *recognise people who are unable to take their own decision and/or to protect themselves and their assets;*
- *recognise that the right to self-determination can involve risk and ensure that such risk is recognised and understood by all concerned, and minimised whenever possible;*
- *ensure the safety of vulnerable adults by integrating strategies, policies and services relevant to abuse within the legislative framework (ie the NHS and Community Care Act 1990, the Mental Health (Scotland) Act 1984, the Public Disclosure Act 1990, the Regulation of Care Act 2000, the National Assistance Act 1948, the Human Rights Act 1998, the Adults with Incapacity Act 2000, the Mental Health Care and Treatment (Scotland) Act 2003, the Data Protection Act 1998, and the introduction of the Care Standards by the Scottish Commission for the Regulation*

of Care 2002). Appendix 3 gives details of the legal context within which the work to protect vulnerable adults is carried out;

- *ensure that, wherever possible, vulnerable adults are protected from criminal acts;*
- *ensure that when the right to an independent lifestyle and choice is at risk the individual concerned receives appropriate help, including advice, protection and support from relevant agencies (eg independent advocacy);*
- *ensure that the law and statutory requirements are known and used appropriately so that vulnerable adults receive the protection of the law and access to the judicial process.*

Roles and Responsibilities

Appendix 1

Agencies' Roles and Responsibilities

- *Lead Agency Responsibilities*
- *General responsibilities of Statutory Agencies*
- *Social Work Services*
- *Police*
- *All appropriate professionals in Health*
- *Scottish Commission for the Regulation of Care (Care Commission)*
- *Independent providers of domiciliary, day care, residential care, nursing care and hospital care*
- *Other small groups and small providers (for example, Luncheon Clubs)*

Lead Agency Responsibilities

- *Identify lead staff members, Line Managers or Senior Managers.*
- *Chair Adult Protection Conferences/reviews, and meetings.*
- *Record and distribute accurate records and minutes.*

- *Co-ordinate and monitor actions arising from Case Conferences/reviews/meetings.*
- *Monitor and audit the outcomes of investigations carried out under the protocol.*

General Responsibilities of Statutory Agencies

- *Rigorous recruitment practices in relation to both employing staff and in the selection of volunteers.*
- *Supervision and monitoring of staff working with vulnerable adults.*
- *Internal operating procedures and guidance for all staff relating to this multi-agency protocol that set out the responsibilities of all staff.*
- *Vulnerable adult protection awareness and procedure training for all staff and volunteers. This will include all roles within the protocol and procedures.*
- *Keep clear and accurate records.*
- *Undertake risk assessments.*
- *Share information on a need-to-know basis when it is in the best interest of the vulnerable adult.*
- *Participate in the joint working arrangements as defined in this protocol.*
- *Implement preventative and/or supportive action to vulnerable adults.*
- *Contribute to investigations, acknowledging the requirements of confidentiality and data protection.*

In addition, Social Work Services will:

- *co-ordinate the review of the Protocol;*
- *on an annual basis, collate and report to relevant stakeholder groups on the use of the protocol and the information gathered in the monitoring of its use.*

In addition, the Police will:

- *pursue criminal proceedings when appropriate;*
- *provide information to vulnerable adults to help them protect themselves;*
- *protect people in vulnerable situations.*

All appropriate professionals in Health will:

- *undertake evidential investigations or medical examinations, provided the person has given consent.*

The Scottish Commission for the Regulation of Care will:

- *inform Social Work Services when reports are received that one or more service users may be or are at risk of abuse or neglect within registered establishments or their own homes;*
- *work jointly with Social Work Services or Health where residents require a response under these procedures;*
- *attend vulnerable adult Initial Referral Discussions, Case Conferences and Reviews in respect of regulated services;*

- *keep other agencies informed of any enforcement action taken by the Care Commission when inspecting any regulated service;*
- *participate in investigations where appropriate;*
- *pursue statutory action where appropriate.*

The Mental Welfare Commission for Scotland will:

- *investigate any complaint it receives concerning the welfare of anyone with a mental disorder including dementia, learning disability or acquired brain injury.*

Independent Providers of Domiciliary, Day Care, Residential Care, Nursing Care, Housing Support, Community Services and Hospital and Health Care will:

- *Establish procedures for the protection of vulnerable adults which are consistent with this protocol;*
- *Provide information and assistance to investigating officers and case co-ordinators;*
- *Participate in the joint working arrangements as defined in this protocol.*

Other Small Groups and Small Providers (for example, Luncheon Clubs) will:

- *Report incidents of actual/suspected abuse or self-neglect to Social Work Services and where appropriate to the Police;*
- *Participate in the joint working arrangements as defined in this procedure when requested.*

Glossary of Terms

Appendix 2

This protocol will be used by staff and carers in a number of health and social care settings from the statutory, private and voluntary sector. It is applicable to all of these sectors and the language and terminology is as non-specific as possible. However, inevitably not every term or designation will be understood by everyone. To assist with this potential difficulty a glossary of terms is included. These further definitions are listed below.

Capacity - *the ability to make an informed choice.*

Care Commission - *The Scottish Commission for the Regulation of Care is responsible for regulating care services. Care Services must register with the Care Commission and are subject to regular inspections. The Care Commission takes an active role in improving the quality of services and making information available to the public about the quality of these services. The Care Commission has a responsibility to investigate any complaints it receives concerning regulated care services. It also has a responsibility to take enforcement action concerning care services. This provides legal authority to place conditions on how a service can operate and ultimately has the power to cancel the registration of a service (effectively closing the service).*

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 vulnerable and who are not being heard. This often involves speaking up for them helping them to express their views and assisting them to make their own decisions and contributions. Contact with the appropriate advocacy service can be made through the local authority or NHS Board.

First Line Manager/Supervisor - *the person who has managerial responsibility for an individual worker.*

Mental Health Officer - *a local authority social worker who has undergone specific post qualifying accredited training in mental health. This person then has certain delegated powers under the Mental Health legislation to act in conjunction with medical practitioners in the compulsory detention of individuals with mental disorders.*

Mental Welfare Commission for Scotland - *a national body appointed by the Scottish Executive to oversee and protect the rights of those with a mental disorder. The Mental Welfare Commission has a duty to investigate any complaint it receives concerning the welfare of anyone with a mental disorder including dementia, learning disability or acquired brain injury.*

Place of Safety - *this can be a formal or informal arrangement to allow a vulnerable adult to be accommodated safely without the risk of further abuse eg hospital, care home or the home of another family member.*

Social Care - *a range of settings, statutory and voluntary including care homes and care at home, where vulnerable people are looked after or assisted with their essential living tasks.*

Social Work Practice Team - *the team which delivers the local social work service including all assessment and care management for adults and older people.*

Staff Member - *for the purpose of these guidelines this includes anyone who is employed in a social care setting. Again for the purpose of these guidelines this term also applies to informal carers.*

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 bypass the formal line management arrangements if necessary.*

Public Guardian - *established under the Adults with Incapacity (Scotland) Act 2000. The Public Guardian grants authority to access adults funds and has power to investigate complaints against interveners, guardians and attorneys. The Public Guardian must notify the local authority of intervention order on adults living in their area.*

Legal Framework

Appendix 3

The Legal Context

The distinction in law is made between those adults who are capax (capable of managing their affairs) and those who are not. Until a person is recognised in law as being incapable of managing their affairs or making decisions in their own best interests no care agency can forcibly intervene in a relationship because they deem it to be unsuitable or abusive. The statutory powers and duties of any care agency are underpinned by Human Rights legislation and this works both ways so that, as well as protecting an individual's right to live his or her life peaceably and without fear, an authority must also (within reason) respect the manner in which the individual chooses to live his/her life. Where an individual has the capability to express their free will, care agencies can do no more than give information about services and where appropriate, help the vulnerable adult to take up those services/options. They should not try to direct an individual to use these services in a manner that might be regarded as coercive.

Therefore, when approaching the kind of situation where there is a suspicion of abuse, mistreatment or neglect of a type which may appear to require legal intervention (civil or criminal) the preliminary issue to be settled in every instance is whether the alleged victim has capacity.

Adults With Incapacity (Scotland) Act 2000

The Adults With Incapacity (Scotland) Act 2000 is a significant piece of legislation in the protection of vulnerable adults. The Act addresses the question of how to proceed when faced with the gradual decline in an individual's capacity.

The Adults With Incapacity (Scotland) Act 2000 offers various means of intervening in the lives of adults (over 16 years of age) who due to incapacity, however caused, are incapable of protecting their own welfare or financial well-being. This includes power of attorney arrangements, guardianship, issues related to medical interventions and access to funds for day to day money management. The local authority has a duty to act under this legislation where a need is identified and no one else is willing or able to do so.

It introduces a more flexible system of providing for care as well as protecting the individual and their assets. It can also provide assistance for adults who are incapable. It is important to note that the 2000 Act does not simply address the needs of individuals who are incapax but is concerned with incapable adults 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 will not fall within this definition if their inability to communicate or understand communications can be 'made good by human or mechanical aid'. For example, an adult with speech difficulties may have an inability to communicate his wishes or desires but if this can be overcome by the use of a computer or other mechanism, he will not fall within the terms of the Act. Likewise, where a family member is able to interpret the wishes of an adult who is otherwise incapable of

communication he will likely not fall within the terms of the Act.

Any party claiming an interest in the welfare or financial affairs of an individual can make an application to the Court to make an order to maximise the interests and protect the well-being of that individual. The Court has a broad discretion in hearing evidence and is not limited to considering only evidence proffered by the applicant. The Court has an equal discretion in making any order and is bound to make its order not necessarily in accordance with the terms of the application but rather in accordance with how it sees the best interests of the subject of the application might be served. Any order must endeavour to provide for **the minimum intervention necessary as the purpose of the Act is not only to protect the individual but also to allow them as much autonomy in their life as is possible.**

Powers of Attorney

Under Part 2 of the Adults with Incapacity Act 2000, an adult may appoint an attorney with powers over property and financial affairs commencing or continuing on incapacity (referred to as "a continuing attorney"); or an attorney with powers over personal welfare exercisable only on his or her own loss of capacity (referred to as "a welfare attorney").

Intervention Orders and Guardianship

Under Part 6 of the Act, it becomes possible to apply to the Sheriff for an intervention order to deal with clearly defined financial, property or personal welfare matters in relation to an adult. Guardianship under the Mental Health (Scotland) Act 1984 ("the 1984 Act") is replaced with a new form of

guardianship order which can include powers over property, financial affairs or personal welfare or a combination of these. A guardian with powers over financial affairs and property is referred to as a "financial guardian" and a guardian with powers over personal welfare is referred to as a "welfare guardian".

The Sheriff can make an interim order, if it seems appropriate, pending final disposal of the application, which may result in an interim Guardian being appointed.

The Act confers a wide range of functions and responsibilities on local authorities. Key areas include:

- *To investigate circumstances where personal welfare of an adult seems to be at risk (Section 10).*
- *To provide information and advice to those exercising welfare powers.*
- *To investigate complaints in relation to those exercising welfare powers.*
- *To supervise attorneys and guardians (Section 53).*
- *To apply for an intervention order when no-one else is doing so (Section 57 (2)).*
- *To apply for guardianship order where no other means would be sufficient to safeguard the adults interests (Section 57 (3)).*
- *To provide reports to the Sheriff relevant to applications for intervention orders or guardianship orders relating to personal welfare. Note: Where someone other than the local authority applies for welfare guardianship, he or she must give notice of the application to the Chief Social Worker Officer who must arrange for the relevant reports within 21 days. This time limit is important (Section 59 (1) and (2)).*

- *To act as welfare guardian where no-one else is applying to do so (Section 73 (3)).*
- *To recall the personal welfare powers of a guardian (Section 76).*
- *To arrange for transfer of guardianship where adult changes habitual residence.*
- *To consult with the Public Guardian and Mental Welfare Commission.*

After a Guardianship Order or Intervention Order has been granted it is the responsibility of the Sheriff Clerk to notify the Public Guardian. The Public Guardian will issue a certificate of appointment, notify the local authority, and, where the reason for incapacity relates to mental disorder, the Mental Welfare Commission. The Public Guardian will maintain a register of all Intervention Orders and Guardianship Orders. Although the Public Guardian or Intervener should communicate directly with the Adult and the nearest relative, carer or care provider informing them of their role.

The Act imposes a statutory duty on the Public Guardian, Mental Welfare Commission and local authorities to investigate any circumstances made known to him or them where an adult is at risk. The Public Guardian must investigate any circumstances made known to him in which the property or financial affairs of an adult seem to him to be at risk. With regards to the Mental Welfare Commission and local authorities they must investigate any circumstances made known to them in which the personal welfare of the adult seems to them to be at risk.

In consequence of any investigation carried out, the Public Guardian, Mental Welfare Commission or local authority, as the case may be, may take such steps as are deemed to be

necessary. These include the making of an application to the sheriff, as seems to him or them to be necessary to safeguard the property, financial affairs or personal welfare of the adult.

For the purpose of any investigation the Public Guardian, Mental Welfare Commission and local authority must provide each other with such information and assistance as may be necessary to facilitate the investigation.

Other Relevant Legislation

Mental Health (Care & Treatment) (Scotland) Act 2003

Mental Health (Care & Treatment) (Scotland) Act 2003 covers four main areas:

- *it places a range of duties, and gives a range of powers, to organisations involved in mental health law, including mental health service providers, the Mental Welfare Commission, and the new Mental Health Tribunal for Scotland;*
- *it defines clear procedures for decision making on the compulsory treatment and/or detention of people with a mental disorder. Its sets criteria which have to be met before compulsion can be authorised;*
- *it amends existing criminal justice legislation to give courts more effective ways of assessing and dealing with a person with mental disorder who comes before them. And, it defines procedures for the review of orders made by a court in relation to a person with a mental disorder;*
- *it provides a range of new rights for people with a mental disorder, such as a right of access to advocacy services; and,*
- *it provides safeguards on the use of certain medical treatments.*

Section 34

Under Section 34 it is possible for a Mental Health Officer (MHO) or medical commissioner to seek a warrant to allow a Police Constable to force entry to a house or other premises where they have reasonable cause to believe that the person is suffering from a mental disorder, has been or is being ill-treated or neglected or lives alone and is unable to care for themselves. The purpose of this is to allow assessment of the person's mental state and consequently to allow further detention if necessary. Section 34 can be used where a person is either living alone and incapable of caring for themselves adequately or where a person is being kept in conditions which could be detrimental to his health and well-being and access has been refused.

Section 297

Under Section 297 the police can remove a person from a public place, who appears to be in immediate need of care or treatment and is placing themselves or others at risk by virtue of mental disorder. The police can remove this individual to a place of safety for up to 24 hours. A place of safety can include a hospital, care home or may even include a police station, though guidance is clear that a police cell would be a last resort. This will allow for an assessment of the person's mental state and the possibility of further detention where required.

National Assistance Act 1948
Section 47

While heavily amended, this Act still has some validity in respect of people living in unsanitary conditions, either by choice or through circumstances of abuse.

Under S47, a local authority can apply to the Sheriff Court, for an order to allow such a person to be removed to a hospital or other place of safety for a period not exceeding 3 months.

Such an order will be granted if the court is satisfied the person is suffering from grave chronic disease or being aged, infirm or physically incapacitated, is living in unsanitary conditions and is unable to devote to themselves, and is not receiving from other persons proper care and attention. If a person is found to have a mental illness, they can be detained under the Mental Health (Care and Treatment)(Scotland) Act 2003. If the person is found to be physically ill they can be treated by a doctor.

This Act is rarely used and many likely scenarios are now addressed by the Adults With Incapacity (Scotland) Act 2000.

Human Rights Legislation

The European Convention of Human Rights was drawn up in 1950 and ratified by the UK in 1951. The Convention rights, which are binding on statutory agencies include:

- *The right to life (Article 2)*
- *Prohibition of torture and inhumane or degrading treatment or punishment (Article 3)*
- *The right to liberty and security of person (Article 5)*
- *The right to respect for private and family life, home and correspondence (Article 8)*
- *Freedom of thought, conscience and religion (Article 9)*
- *The right to freedom of expression (Article 10)*
- *Prohibition of discrimination in the enjoyment of Convention rights (Article 14)*
- *Prohibition of Abuse of Rights (Article 17)*
- *Protection of property (Article 1 of the First Protocol)*

The Convention rights recognise that there is a balance to be struck between the general interests of society and the protection of the individual's rights. The rights and freedoms set out in the Convention cannot be properly understood without reference to the substantial body of case-law which Strasbourg institutions have developed since 1950. Even then, the European Court of Human Rights has emphasised that the Convention is a living document and must be interpreted in the light of changing attitudes and values in society generally.

Regulation of Care (Scotland) Act 2001

The Regulation of Care (Scotland) Act 2001:

- *establishes a new independent body to regulate care services in Scotland. This is known as the Scottish Commission for the Regulation of Care (the Care Commission); and*
- *establishes a system of care regulation, encompassing the registration and inspection of care services against a set of national care standards and the taking of any enforcement action.*

The Act also establishes a new independent body, to be known as the Scottish Social Services Council ("The Council") to regulate social service workers and to promote and regulate their education and training.

Local Contacts Appendix 4

The following contacts can provide advice and guidance regarding action to be taken where there is a suspicion of abuse to a vulnerable adult.

Angus	Tayside Police Divisional HQ West Bell Street DUNDEE Tel 01382 223200
Dundee	Tayside Police Divisional HQ West Bell Street Dundee Tel 01382 223200
Perth and Kinross	Tayside Police, Divisional HQ Barrack Street PERTH Tel 01738 621141
Tayside Social Work Out of Hours Service	353 Clepington Road, DUNDEE DD3 8PL Tel 01382 436430

For guidance relating to Adults With Incapacity contact:

The Office of the Public Guardian
Hadrian House
Callendar Business Park
Callendar Road
FALKIRK
FK1 1XR

Tel 01324 678300
Email opg@scotcourts.gov.uk

Scottish Commission for the Regulation of Care
Compass House
Riverside Drive
DUNDEE
DD1 4NY

Tel 01382 207100.
Fax 01382 207200
Website www.carecommission.com

Mental Welfare Commission for Scotland
K Floor
Argyle House
3 Lady Lawson Street
EDINBURGH
EH3 9SH

Tel 0131 222 6111
Website www.mwcscot.org.uk

Appropriate Adult Scheme

Appendix 5

- *Whatever the age, background, abilities or position of people within our communities, everyone is entitled to the same level of service. In particular, if a person becomes a victim of crime, witnesses a criminal act, or even finds him/herself accused of committing a crime, each individual has the same rights as anyone else even though his/her needs may be different.*

- *It is essential that all people who come into contact with the police fully understand both their rights and what is being asked of them. It is equally essential that the police understand what is said in reply.*

- *The Appropriate Adult Scheme involves professional people with experience in communication with mentally disordered people. They are drawn from a wide variety of agencies including Social Work and Health.*

- *The term mental disorder includes people who are mentally ill, people with a learning disability, those with an acquired brain injury and people who have dementia.*

- *The role of the Appropriate Adult as a facilitator during any stage of police procedures is vital in ensuring that a person with a mental disorder is at no more of a disadvantage than any other member of the community when he or she is involved in police enquiries. They are then able, in a professional capacity, to tell a court whether that person did, or did not, understand what was being said to them.*

Who should be an Appropriate Adult?

An appropriate adult should be:

- *someone who is completely independent of the police and, where possible, independent of the interviewee;*
- *an individual who has experience and expertise in working with mentally disordered individuals or a particular group;*
- *an individual who has an ability to meet the communication needs of a particular group;*
- *professional qualifications and experience are desirable in the appointment of an appropriate adult, but are not proof of suitability.*

NB Given that a number of professionals may be asked to be involved as an appropriate adult, this should not involve individuals who may be cited as an expert witness (eg psychiatrist, psychologist) in that case. Where a professional has acted as an appropriate adult in a case, he/she should not be cited in a capacity other than that of an appropriate adult.

Other police activities where the use of an Appropriate Adult may be indicated are:

- *Fingerprinting*
- *Photographs*
- *Premises search*
- *Identification parade*
- *Intimate body search*
- *Medical examination*
- *CD Fit/E Fit interview*

When is an Appropriate Adult required?

The responsibility for identifying when an appropriate adult is required rests with the police officer who is dealing with the case, whether the person with the mental disorder is a witness, suspect or accused.

It should be emphasised that appropriate adults are now available for those with all types of mental disorder, for example:

- *Learning disability*
- *Mental illness*
- *Alzheimer's disease/other forms of dementia*
- *Acquired brain injury*

The police officer should also take into consideration the presence of any of the following in order to make his/her judgement as to whether or not an appropriate adult may be required:

- *Excessive anxiety*
- *Unusual mood level*
- *Incoherence (other than that associated with controlled drugs/alcohol)*
- *Inability to understand*
- *Unusual behaviour*
- *Agitation leading to physical activity not in keeping with the current situation*

How do I access an Appropriate Adult Scheme?

Contact should be made with the Appropriate Adult's (Tayside) Co-ordinator at the Crime Management Department, Tayside Police, West Bell Street, Dundee, tel 01382 596815 *or* 596636 (Monday - Friday 9.00 am to 5.00 pm).

Outwith the hours of 9.00 am to 5.00 pm (Monday - Friday) contact your local Police Station or Social Work Out of Hours Service on 01382 436430. In some areas the social work service co-ordinates a rota of suitably trained appropriate adults.

Membership of the Tayside Protecting Vulnerable Adults Review Group

Appendix 6

This protocol has been developed by a multi–agency Tayside wide group brought together for the purpose of its production.

Members of the group were:

Jenni Tocher, *Dundee City Council (Chair)*

Gwyneth Greig, *NHS Tayside*

Lynda Murdach, *NHS Tayside*

Jill Livingston, *NHS Tayside*

Ian Glass, *Tayside Police*

Lorraine Turnbull, *Angus Council*

Tim Armstrong, *Angus Council*

Peter Connolly, *Dundee City Council*

Alex Vannart, *Perth & Kinross Council*

Mary Notman, *Perth & Kinross Council*

James Currie, *Dundee City Council*

Monitoring and Review

The group will reconvene in 6 months time to review the contents of the Protocol and monitor its effectiveness in practice. At that time consideration will be given to the inclusion of any amendments.

The Protocol with thereafter be subject to annual review.

Step by Step Guide

Introduction to the Step by Step Guide 1.1

Agencies will have operating procedures, guidelines or instructions which:

- *confirm for staff what local action should be taken when abuse, mistreatment or neglect of a vulnerable adult is suspected or has taken place;*
- *clarify the roles and responsibilities of all those involved; and*
- *will be consistent with this overarching Protocol.*

This Step by Step Guide will inform what action is taken however specific details may vary according to local context and need. Staff who are involved in suspected or actual cases of abuse, mistreatment or neglect should consult and comply with their local agency procedures, guidelines or instructions.

Section 12 A of the Social Work (Scotland) Act 1968 and the NHS and Community Care Act 1990 give legislative power and duties to the local authority to become responsible, in collaboration with other agencies, for the assessment of the needs of an individual for whom they may need to provide a community care service. In most cases the Social Work Service will be the lead agency, receiving referrals and determining the action to be taken in response to actual or suspected abuse, mistreatment or neglect of a vulnerable adult.

Partner agencies in this protocol have agreed that the lead co-ordinating role in relation to individual cases is taken by senior staff in the social work services of the local authority. Steps 1-5 cover likely actions to be taken by staff from any agency who have concerns about the welfare of a vulnerable adult. Steps 5-9 cover action to be taken after referral to the local Social Work Service whose staff members will have a lead role in the investigation of concerns about the safety and well-being of vulnerable adults.

Although this process can be used when a particular event or incident raises concerns, its contents are equally relevant in cases where concerns have been cumulative over time and it is decided that intervention may be necessary.

Recording 1.2

Good recording of information throughout a process which aims to safeguard the welfare of a vulnerable adult is essential. These records should be evidence based, accurate, legible and should be kept up to date during all stages

All staff should make sure that records are made immediately available after each event. These should include:

- *the nature/substance of incident/concern;*
- *details of referrer unless anonymous;*
- *report on each aspect of the abuse/concerns investigated;*
- *initial assessment of incident/concern, information provided and person's circumstances;*
- *external referrals/consultations;*
- *issues of capacity/incapacity/consent;*
- *vulnerable adults own wishes and views;*
- *carer views;*
- *decisions/action taken and reasons for these;*
- *roles/responsibilities of those involved - including clarification;*
- *framework for monitoring/reviewing/ ongoing work;*
- *any issues of restriction/confidentiality;*
- *if appropriate, when and why it is decided to take no further action.*

Step by Step Guide 1.3

Step 1

Concern or initial referral about a vulnerable adult

You witness, suspect or receive information about abuse, mistreatment or neglect - talk to the victim and seek consent to take action.

Person Responsible:

Person/staff member, who witnesses, suspects or receives information about abuse, mistreatment or neglect. (In this document this person will be referred to as the 'staff member' for simplicity, but this would include informal carers).

Action to take:

- *If the person is unconscious they clearly lack capacity (ie cannot at this point give consent), go straight to **Step 3** (Response when immediate medical or Police intervention is necessary).*
- *If the person is conscious but clearly requires urgent medical attention, go to **Step 3**, (Response when immediate medical or Police intervention is necessary).*
- *If the person does not require immediate medical attention and you suspect/witness abuse, mistreatment or neglect, speak to the person about your concerns and the risks involved. Ask the person what has happened (including whether it has happened before) who was*

*involved, what the person thinks about the situation and what they want done about it. Also try to ascertain potential risk to others. Record your conversation carefully and if possible ask the person to agree that you have made an accurate record of the conversation. Seek their consent for any subsequent steps you believe are necessary, including advising your line manager. (Go to **Step 4** and proceed).*

- ❍ *If consent is not given (Go to **Step 2**).*

Notes:

(a) Individuals should normally retain the right to decide whether and/or how they wish to be helped (see Step 2 for exceptions).

(b) Ask the person if (s)he wishes to have any significant other(s) present during any discussion of alleged abuse. Consider the use of an independent advocate or the Appropriate Adult Scheme.

(c) If communication is a barrier (eg ethnic minority language, sensory impairment and/or special needs) it is important to offer the use of communication aids and/or an independent interpretation service. Your local social work service will have information to assist.

(d) If the alleged abuse, mistreatment or neglect occurs in a private or voluntary residential/nursing home or day care establishment or is alleged to involve a paid member of a non-statutory service, action should be taken in conjunction with the Scottish Commission for the Regulation of Care (the Care Commission).

If a relative or friend raises concerns with a staff member he or she should inform them of:

- *the statutory requirement for all registered services to have a complaints procedure;*
- *their right to report their concerns to the police;*
- *their right to report their concerns to the Care Commission;*
- *the fact that, if the staff member thinks that a crime may have been committed he or she will contact the police and the duty officer within the Care Commission.*

The concern may be about quality of care, mistreatment, or abuse.

Contact details for the Care Commission are given in Appendix 3 of the Protocol.

(e) If the situation could be defined as a serious incident involving a vulnerable adult with mental disorder, the incident should be reported to the Mental Welfare Commission for Scotland. Further information on serious incident reporting is available in local agency procedures, guidelines or instructions and on the Mental Welfare Commission for Scotland website. Contact details for the Mental Welfare Commission for Scotland are given in Appendix 3 of the Protocol.

(f) If the allegation of abuse, mistreatment or neglect concerns a staff member then as well as consultation with the line manager, contact should be made with the appropriate Human Resources Section for advice and guidance (See Section 2.4 (of the Protocol) - Dilemmas in Adult Protection).

(g) Record any discussion and any action taken.

Step 2

When a vulnerable adult does not give consent for action to be taken

When the person does not give consent. Establish Capacity (for details on issues of capacity you should refer to your own agency/departmental procedures).

Person Responsible:

Staff member in consultation with the Line Manager.

- ***If the person/vulnerable adult does not want any action taken his/her wishes should be respected unless:***
  - *it is established that he/she lacks capacity (Adults with Incapacity (Scotland) Act 2000);*
  - *he/she or others are at risk; and,*
  - *there may be a child at risk (refer to Inter-Agency Child Protection Guidelines, via local Child Protection Committee).*

  If the vulnerable person is placed in the institutional setting by the local authority then the Social Work Service should be advised of the concerns (Go to **Step 4***).*

- ***Exception:*** *If the person is a tenant, resident, patient etc in a statutory, voluntary or private institutional setting, it is important for any suspected or actual incident of abuse, mistreatment or neglect to be reported, regardless of the vulnerable adult's wishes, as this incident may impinge on others' rights and/or may involve situations where the alleged abuser is a member of staff.*

  In certain circumstances it may be appropriate to refer the situation to the Care Commission. (Agency procedures should be consulted for details of circumstances where this would be appropriate).

- *If you are unsure of the person's capacity (ability to make an informed decision/choice) discuss this with your Line Manager, health professionals and/or refer to Social Work Service.*

- *If the vulnerable adult is capable but his/her circumstances put him or herself or other people at risk discuss fully with your Line Manager, and if deemed appropriate, a manager within your local Social Work Service. You may decide to go to* ***Step 4****. (You should refer to Section 2.3 of the Protocol)*

- *If the vulnerable adult decides not to give consent for a referral to the Police or Social Work Service, and they are assessed as being capable of making this decision, a discussion should still take place between you and your Line Manager regarding further action.*

  (a) *If it is decided to take 'no further action' the reasons for this decision and the date should be clearly recorded. In such cases you might want to:*

  - *Try to establish a 'Life Line' for the person eg a named person/organisation where help can be sought if there is further danger and/or the person changes their mind about the referral. Ongoing work might include general support/advice and minimising harm/increasing safety of person.*

  - *Locate an independent advocate. If the person concerned would benefit/agree to having an independent person to represent their interest, referral to an advocacy service should be made.*

  - *The situation should be regularly monitored and reviewed if at all possible.*

Step 3

When immediate medical assistance or police involvement is needed

When a vulnerable adult has obvious injuries or is in need of medical attention or if it appears likely that a crime may have been committed.

Person Responsible:

Staff member

- *Having obtained consent or established incapacity, contact the appropriate emergency service particularly if a vulnerable adult appears to be in immediate need of medical attention or there is evidence of physical or sexual abuse. In the case of physical or sexual abuse immediate referral is essential to ensure that treatment and care are immediately provided and also that vital evidence is not destroyed.*
- *Medical care must be provided or sought if required.*
- *If a crime has, or may have, been committed the Police must be informed. Action should be taken, wherever possible, to secure evidence and preserve the crime scene.*

The Data Protection Act (DPA) 1998 acknowledges that in some circumstances, certain information must be disclosed. For the purposes of this Protocol, this will involve information relating to the abuse of adults, the investigation of crime or the detection and prosecution of offenders. DPA Section 29 permits the disclosure of information for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders, and where those purposes would be likely to be prejudiced by non-disclosure. Disclosure without consent is also permitted where disclosure is required by law. For the purposes of the common law duty of confidentiality

if there is no consent, this is the point where the need for confidentiality would need to be balanced against countervailing public interests - again preventing crime is accepted as one of those interests.

All action taken must be recorded and discussed with a line manager or an alternative manager. (Go to **Step 4**) the person does not give consent for action.

Notes:

(a) Staff members should not put themselves at risk.

Step 4

Consultation with a Manager

When consulting with your line manger or an alternative manager in his or her absence.

Person Responsible:

Staff member in consultation with line manager

Discuss suspected or actual abuse, mistreatment or neglect with your Supervisor/Line Manager as soon as possible. If (s)he is not available discuss your concerns with a suitable alternative manager. The full facts and circumstances of the situation together with all available options and courses of action should be identified and discussed. **A plan of action should be the outcome of this meeting.**

The following points, amongst others, may need to be considered:

- *The person's level of capacity and consequent involvement in actions/decisions/choices.*

- *Whether independent advice/consultation, Police, Social Work, Solicitors, Medical, (while protecting the person's identity), would be useful before proceeding. (Reference: Adults with Incapacity Act).*
- *Whether a referral to the local Social Work Service is appropriate. In all cases, where there is a suspicion of abuse, mistreatment or neglect or clear evidence of it, a referral must be made to the Social Work Service as the local authority holds lead responsibility for the duty of care. This referral should be made within 24 hours of gaining the vulnerable adult's consent, or a decision that he/she lacks capacity, or a decision that the risk warrants dispensing with the vulnerable person's consent. (Go to **Step 5**).*
- *If not already involved, whether the Police or the Care Commission should be contacted at this stage.*
- *Whether a medical examination needs to take place. Any delay may jeopardise securing vital evidence.*
- *Whether the person needs to be removed to a place of safety. Staff considering such a move should always seek legal advice.*
- *Whether immediate action would cause more distress and/or pose greater risks to the vulnerable adult.*
- *All action taken must be recorded, including a decision to take no further action at this point. Such a decision should be reached in consultation with a senior member of staff within your organisation.*

Step 5

Referral to the local authority social work service

When referring to the social work service.

Person Responsible:

The staff member making the referral

Referrals may be made to duty social work services, out of hours social work services or case responsible workers.

The staff member making the referral to the Social Work Service should include (as far as possible):

- *personal details, name, address, date of birth, ethnic origin, gender, religion, GP, type of accommodation, family circumstances, support networks, physical health, any communication difficulties, mental health including whether the person is subject to any order under the Mental Health Act or Adults with Incapacity (Scotland) Act 2000;*
- *the referrer's job title and reason for involvement;*
- *nature/substance of the allegation or concerns;*
- *details of care givers/significant others;*
- *details of alleged abuser, where appropriate, and current whereabouts and likely movements within the next 24 hours, if known;*
- *details of any specific incidents, (eg dates, times, injuries, witnesses, evidence such as bruising);*
- *background of any previous concerns;*
- *awareness or not/consent or not by the person concerned, carers, alleged abusers of the referral;*

- *information given to the person, expectations, wishes of the person, if known;*
- *record all action taken and decisions made.*

Note:

The outline above would be useful for a referral/consultation with any external agency.

Staff should refer to the content of **1.4** , **2.2** and **2.3** of the protocol.

Appendix 4 of the Protocol gives details of local contacts for those seeking advice and guidance regarding action to be taken when there is a suspicion of abuse to a vulnerable adult.

Step 6

Receiving a referral in the Social Work Service

The staff member receiving/accepting the referral in Social Work Services.

Person Responsible:

Worker receiving the referral and his/her manager.

The staff member records the referral and ensures that the details in Step 4 on content of referrals are covered. If necessary, the staff member should confirm details with the referrer. The referrer should be asked to put the referral in writing. Referrals where the referrer wishes to remain anonymous, should be treated as any other referral and be acted upon accordingly.

The staff member discusses with his/her line manager or a suitable alternative manager as soon as possible on the day of referral.

The responsibilities of the worker and the line manager are to co-ordinate/take any actions necessary to protect the vulnerable adult.

Action to be taken:

- *Allocate the case if necessary. It is important that the staff member who commences working with the vulnerable adult can continue to do so during the assessment and care planning stages. If the allegation of harm, mistreatment or neglect involves a person with a learning disability or someone with mental health problems or dementia, the case should be allocated to a social worker or suitably qualified member of staff.*
- *Inform a senior manager who will decide if there should be a referral to the Public Guardian, Mental Welfare Commission and the Care Commission. Contact details for the Care Commission and the Office of the Public Guardian are given in Appendix 4 of the Protocol.*
- *If the alleged abuse, mistreatment or neglect occurs in a private or voluntary residential/nursing home or day care establishment, home care, supported living, sheltered accommodation, adult placements, housing support services, independent health services or is alleged to involve a paid member of a non-statutory service, action should be taken in conjunction with the Care Commission. The Manager of the Home and/or Day Service should be advised of the allegation.*
- *Establish whether any action is needed immediately/ urgently (eg does the vulnerable person need to be removed to a place of safety/require medical assessment or attention).*

- *Confirm vulnerable adult's capacity/incapacity. Seek evidence to support this. If there is not sufficient evidence, consideration should be given to seeking medical/ psychiatric/mental health officer input. If a Mental Health Officer or other professional becomes involved responsibility for on-going work should remain with the worker.*

- *Inform police, share existing information and decide action to be taken by the police, if any, including a joint visit. Establish who else is involved and whether and/or when they should be informed. They may have additional information. Initial referral discussions are a crucial part of the information gathering and assessment processes and may take place in person, by phone or at a meeting to which people may be invited. Details on how to make a referral to the police are given on page 100.*

- *If the police are not to become involved, discuss and decide whether a joint visit by the staff member/senior is appropriate. Other than in emergencies, visits should not be made without the staff member concerned checking the information known about the vulnerable adult by other agencies.*

- *Ensure that if the vulnerable person requires to be seen this happens within 24 hours, or one working day, of receipt of the referral. If the allegation involves actual or suspected deliberate harm the vulnerable person must be seen and spoken to alone, or with appropriate support, within 24 hours, or one working day, of the allegations or suspicions having been communicated to the social work service. The person's living arrangements should be seen. If the timescale is not met, the reason for this must be recorded on the case file and countersigned by a manager. This requirement applies irrespective of*

whether or not the vulnerable adult is known to the social work service.

- *The interview of people with learning disabilities should be formally planned. Consideration should be given to: a safe environment; the use of interviewers with the necessary skills and understanding; the emotional support needs of the individual; and the use of necessary communication aids or an interpreter. The interview should be recorded in detail using the person's own words.*
- *The line manager should ensure that the worker has the support he/she requires during the assessment process. Supervision arrangements should include formal case management, with all decisions clearly recorded by the supervisor and monitored at regular intervals.*

Role of Senior Member of Staff

- *Co-ordinate the development of an Adult Protection Plan. This would normally involve organising an adult protection case conference (See Step 8). The senior member of staff would chair this meeting. As a result of this meeting, a care plan should be drawn up or a previous care plan might be revised.*
- *Consider any wider implications. At any time during the investigation process, if the alleged abuse, mistreatment or neglect occurs in a residential/nursing home or day care service, the Senior Manager, in consultation with the Head of Service for Community Care, should give consideration to the possibility of wider abuse/ mistreatment of other service users living within the home or receiving the service, the implications of this and the possible actions to be taken.*

- *Arrange to chair an initial referral discussion. If the referral involves an employee of the social work service it will be necessary for the senior manager to call an initial referral discussion within 24 hours.*
- *Consult with the Head of Community Care Services about the need for any immediate action in respect of the staff member, including suspension.*
- *Overview the implementation and monitoring of the Adult Protection Plan action plan.*
- *Review the situation regularly.*
- *Liaise with senior members of staff and/or other agencies. This would include using any internal incident reporting mechanisms as appropriate.*
- ***Ensure that all steps are recorded fully.***

Notes on Referral Discussion with the Police

Person Responsible:

First Line Manager

- *In situations where there may be indications of a criminal offence or a belief that one has taken place, a referral must be made to the police. Where the victim does not wish to make a complaint to the police it will be for the referral discussion to decide on the appropriate action. This will take into account the interests of the victim against those of public safety.*
- *The line manager, in consultation with the staff member, should decide which of them will make the referral. This referral should be made to the appropriate Divisional Force Communication Centre. Upon receipt of such a*

referral staff in the Control Room will automatically bring the referral to the attention of the Force Duty Officer, who is the senior officer on duty. He or she will make a decision on the action to be taken. Depending on the nature of the referral this might involve a referral to a uniformed officer, referral to the Family Protection Unit or to the Duty Inspector in CID. This referral route ensures an appropriate police response 24/7. The referral will include the sharing of information available to the agencies that will best assist the planning of a criminal enquiry.

- *The referral will discuss the possible need to use the Appropriate Adult Scheme for interviewing victims, witnesses or suspected persons.*
- *The referral will examine the evidence available, how further evidence will be obtained, what medical/forensic evidence is available and how further medical/forensic examination should be undertaken.*
- *The investigation will be planned during the referral discussion and a decision will be made on the type of enquiry required, and which agencies need to be involved (social work, police, health). The processes to be used to investigate the abuse allegation will also be agreed and planned. Voluntary and private service providers might also be involved if their service user is involved.*
- *The referral will agree on personnel to be involved from the agencies and will agree on levels of communication to monitor the progress of the enquiry.*
- *In planning the need for an investigation it will be important to assess risk of further abuse, mistreatment or neglect to the victim or other vulnerable persons. It will also be important to ensure that the vulnerable adult has support and consideration should also be given to referral to Victim Support Tayside.*

- *Within the referral process the agencies will discuss and agree a press strategy if deemed that it may be required.*
- *The referral/assessment process should be ongoing throughout a criminal enquiry and will involve agencies sharing, reviewing and evaluating information as it comes to light.*

Details of initial referral discussions should be recorded.

Step 7

Assessment and Decision-Making

When assessing risk and making decisions about the protection of a vulnerable adult.

Persons responsible:

The allocated staff member
The senior manager

- *The allocated staff member should undertake an assessment, including an assessment of risk. This should involve staff from other agencies as appropriate. This assessment should take account of any chronology and any previous concerns or reports about, or incidents involving, the vulnerable adult.*
- *He/she should report to his/her line manager and senior manager the findings of the assessment.*
- *The senior manager will decide whether an Adult Protection Conference should be convened. Consideration should always be given to holding an Adult Protection Conference, particularly in situations where there is actual abuse, mistreatment or neglect or the*

*threat or opportunity for ongoing abuse, mistreatment or neglect. Also where the individual concerned has little or no insight into the risk to which he/she may be placing him/herself or indeed others. An Adult Protection Case Conference must be held if this is requested by any agency. (Go to **Step 8**).*

- *The senior manager will only make a decision not to hold a conference after consideration of a full investigation and assessment report. He or she should record, in writing, why this decision has been made.*
- *When making a decision about whether or not to hold a conference, the senior manager must take account of any previous referrals/concerns about the welfare of the vulnerable adult. If more than two previous referrals have been received, which have resulted in no conference being held, the senior manager should give full consideration to now holding a protection conference to allow agencies to come together to share information and concern.*

Step 8
Adult Protection Conferences

Organising and Chairing an Adult Protection Case Conference

Person Responsible:

Senior Social Work Manager

The Senior Social Work Manager is responsible for chairing all adult protection conferences and reviews

Purpose:

A case conference is a multi-disciplinary meeting at which information relevant to concerns about abuse, mistreatment or neglect or risk of abuse, mistreatment or neglect is shared and considered. The meeting assesses risk, makes decisions on the actions which need to be taken, and, where appropriate, agrees or reviews an adult protection plan. This plan includes details of who will do what and when.

When:

An initial Adult Protection Conference should be held within a limited period of time from a referral being made to the Social Work Service or the Police which leads to an investigation into possible abuse, mistreatment or neglect. Specific timescales will be defined in local procedural guidance.

Organising and Chairing:

The Social Work Service will take responsibility for the organising and chairing of case conferences. The chairperson should be the senior manager involved in the investigation. The designated chairperson will ensure that time and venues are arranged and that all relevant people, for example, GPs, community nurses, other health professionals, care staff, family members, social work staff are invited. Whenever possible, and where appropriate, the vulnerable adult who is the subject of the concern should be invited to attend. He or she has the right to be accompanied by an independent advocate, solicitor, appropriate adult or support worker of his or her choice, including family member(s). Before attending a conference, the vulnerable adult and where appropriate his/her relatives/carers, should be briefed about the purpose and format of the meeting. In the first instance this may be by phone call but will be confirmed by standard letter. The person who will take the minutes of the meeting should be identified in advance and should not be the chairperson.

- *Where there is dissent or concern, the chairperson will consider and rule on requests for a family member and/or carer to be included/excluded from the case conference or requests that the adult involved should/should not attend the case conference. Generally, if a person is excluded this is because their presence would be detrimental to the wellbeing of the vulnerable adult. Decisions about who should or should not attend should be recorded in writing with reasons.*

- *Provision should be made for the chairperson to advise the professionals attending the case conference, prior to its commencement and before the adult involved and his/her family and/or carer are invited in, to confirm if any professional needs to share information without the family being present. If so, this should be done prior to them joining the case conference. It is expected that this will be exceptional and that the vulnerable adult and family/carer, will be able to attend for all of most meetings.*

Instructions to Chairpersons:

- *The chairperson will introduce him/herself to the adult involved and his/her family and/or carer and any other representative immediately prior to the case conference and confirm their understanding of the purpose and process of the case conference.*

- *Where a vulnerable adult (and/or his or her family/carer) has chosen not to attend or has been excluded from the case conference the chairperson must ensure that the decisions of the case conference are fed back to them as soon as practicable after the case conference. Where appropriate, the vulnerable adult must be consulted and their consent obtained, if capable of giving consent, before details are passed to family or carer(s).*

- *The chairperson will ensure that the minutes of the case conference are accurate and that they are distributed to the appropriate agencies and, where appropriate, the vulnerable adult and his/her the family and/or carer within 15 working days of the case conference.*
- *The chairperson should give consideration as to what information, if any, should be shared with the Care Commission.*
- *The chairperson should ensure that any necessary communication aids/systems (eg loop system) are made available.*

Involvement of the adult about whom there are concerns:

The wishes and needs of the adult about whom there are concerns are at the heart of the case conference process. It should be normal practice for the adult to be involved in discussions about them and their circumstances.

In making decisions about his/her involvement, the chairperson should be guided by:

- *the capacity of the adult concerned;*
- *the information likely to be shared at the case conference;*
- *the likely effect on the adult, particularly when the person suspected of abuse may also require to have some involvement;*
- *the views of the carers/family.*

Involvement of Family/Carers:

Wherever possible, and appropriate, the vulnerable adult should attend a case conference of which he/she is the subject.

In consultation with the vulnerable adult, significant family members and/or carers will normally be invited to attend case conferences.

If the vulnerable adult does not wish the attendance of a significant family member or carer and it is felt crucial to any protection plan that the family member or carer attend, the worker should discuss the issue with the chairperson who will make a final decision on attendance. Decisions will be recorded in writing.

It is important that carers/family have a room in which they can wait and that, when necessary, the time spent on the initial part of the conference, from which they have been excluded is kept to a minimum.

Exclusion of Family/Carers

Practice in this area should be characterised with a genuine wish for involvement of carers/family and where appropriate the vulnerable adult. It is only where there are substantive grounds to believe that the involvement of carers/family would undermine the process and purpose of the case conference that they should be excluded throughout.

Grounds for exclusion would be:

(a) *when a level of conflict or tension exists within the carers/family; or*

(b) *when there is substantive evidence to believe that there is a likelihood of violent or serious disruption of the process of the case conference.*

Carers/family may also be excluded when third party or sub judice information is being presented to the case conference.

Being an alleged abuser is not sufficient reason in itself to exclude a carer or family member, but this may be judged necessary by the chairperson if their presence would seriously affect the consideration of the risk to the adult concerned.

Involvement of a Friend/Advocate

There may be occasions when the adult concerned or a carer or family member may wish to be supported by the attendance at the case conference of a friend, other relative, professional person or member of an independent advocacy service. The attendance of such a person who may be able to assist the adult in clarifying the content of the discussion should be encouraged. The use of an independent advocate or the Appropriate Adult Scheme should also be considered.

Attendance of Professionals

Conferences should be attended by individual professionals from caring agencies who have a direct contribution to make and a role to play. These may include:

- *social work professionals carrying out the investigation or who already know the individual and/or their carer/ family and their supervising senior social worker;*
- *health professionals who are involved in the investigation or who know the carers and/or family concerned (eg health visitor, general practitioner, district nurse, community psychiatric nurse etc);*
- *police officers who are involved in the investigation;*
- *voluntary or private sector staff who are directly involved with the carer/family;*
- *residential or day care staff involved with the adult;*
- *members of the Interpretation/Translation Services;*
- *staff from legal services if legal proceedings seem likely.*

Information Sharing

The Protocol sets out guidance on the sharing of information and those attending conferences will be expected to adhere to its content.

Confidentiality is required from each participant in a case conference and this should be made explicit at the beginning of the meeting by the chairperson. Information will be shared in line with the legislation on Data Protection.

Exceptionally it may be considered that the disclosure of certain information in this kind of meeting could cause serious damage to the person it concerns and care needs to be taken on how this information is shared.

Conduct of Case Conference

Introduction

The chairperson introduces the case conference by confirming:

- *the function of the case conference and the context of the adult protection guidelines;*
- *the adult's/carers' and/or family right to information; clarifying that certain information may have to be restricted; giving the reason for that restriction;*
- *the Chairperson then asks participants to introduce themselves.*

Fact Gathering

The professionals are asked by the chairperson to share information:

- *Beginning with the circumstances of the referral and conduct of enquiries;*
- *Moving on to any relevant background information only once all the information relating to the current enquiry has been shared.*
- *The chairperson briefly summaries each contribution at the time it is made to ensure that the contribution has been properly understood. This process should also facilitate the taking of the minute of the meeting.*
- *It is particularly important that the carers/family understand the information being shared and that they have an opportunity to make their own contribution. If there are disagreements about the information then there should be an attempt to resolve these at the time. However, it may be that some disagreements can only be acknowledged.*
- *The unrestricted information shared at the case conference is summarised by the chairperson.*

Interpretation and Assessment

The chairperson should lead the discussion which focuses on:

- *what are the strengths of the carers/family and what are the threats to the vulnerable adult's wellbeing?*
- *what are the specific dangers to the vulnerable adult and/or carers and family members?*
- *what extended family, professional and community supports could be offered?*

Decisions

The case conference needs to decide whether the adult and/or any other person is believed to be at risk of being abused, mistreated or neglected and if so:

- *consideration must be given as to whether or not a referral should be made to the police if it is believed that a crime may have been committed;*
- *an adult protection plan must be agreed with a list of action points and timescales and details of who will be responsible for what;*
- *consideration must be given to the need for legal intervention, for example via Guardianship through Adults with Incapacity proceedings;*
- *consideration must be given to taking legal advice if legal proceedings are proposed;*
- *a case co-ordinator must be appointed who should be a social worker or care manager;*
- *a review date must be agreed which must take place within six months;*
- *any supplementary actions that may be required as a contingency in the event of a breakdown in care arrangements or other changes in circumstances;*
- *consideration of whether a referral should be made to the Care Commission in respect of concerns about the service;*
- *consideration of whether a Criminal Injuries Claim may be appropriate, along with the need for a referral to Victim Support Tayside.*

Conclusion

The chairperson will summarise the decisions made by the case conference and confirm with participants the roles they will play in the adult protection plan.

Minutes of Case Conference

The minutes of the conference should be completed on a standard minute form and circulated to those attending and, where appropriate, with the consent of the vulnerable adult to family and carers not present. The chairperson is responsible for making any alterations to inaccuracies noted by those in attendance.

The minutes should include as a minimum:

- *essential fact;*
- *details of the adult protection plan (if relevant);*
- *whether the conference decided to refer the matter to the police;*
- *recommendations for further action;*
- *an account of the process of the discussion and the reasons for recommendations;*
- *a note of any dissent;*
- *date of review conference.*

Step 9

Implementing and reviewing an Adult Protection Plan

Implementing and reviewing the Adult Protection Plan and arranging a Review Case Conference.

Person Responsible:

Senior Social Work Manager
Staff member(s) with lead responsibility for work with the vulnerable adult

The *Adult Protection Plan* will be based on the discussion and decisions made at an Adult Protection Conference. The plan will provide a strategy for monitoring the adult's safety and for working to achieve whatever change is required to reduce or remove the risk(s) to which the adult is exposed. The planning process should remain a dynamic and responsive process.

Those professionals who are directly involved in achieving the changes required should be part of a core group whose aim is to reduce or remove the risks in partnership with the vulnerable adult. A copy of the plan should be held by every member of the core group and a copy should be forwarded to the Manager, Social Work Out of Hours Service.

A formal review of the Adult Protection Plan must take place at a *Review Adult Protection Conference*. The case conference will consider the changes that have been made and will re-assess the level of risk for the vulnerable adult.

At the request of any member of the core group, the group can be convened at any other time for the purpose of conducting an interim review. A meeting of the core group must not be seen as an alternative to arranging an early *Review Adult Protection Case Conference*, which should be called if there are changes that significantly affect the risks to the vulnerable adult.

Assuring Quality in Work with Vulnerable Adults 1.4

When working with vulnerable adults.

It is important that all agencies working with vulnerable adults assure the quality of the work undertaken by their agency and jointly with others. All agencies will use this guide to set standards and to monitor the quality and effectiveness of work undertaken to protect vulnerable adults.

Person responsible:

A Senior Manager

- *Senior managers should develop, maintain and review a framework for the inspection of case files, records (including supervision notes), and case conference minutes. Where appropriate, the framework should also include audits of clinical governance and clinical supervision.*
- *Senior managers should ensure that no open case which includes allegations of deliberate harm to a vulnerable adult is closed until the following steps have been taken:*
  - *The individual has been spoken to alone.*
  - *The individual's accommodation has been seen.*

- ✦ *The views of relevant professionals have been sought and considered.*
- ✦ *There is evidence that the individual's welfare will be safeguarded and promoted should the case be closed.*

❍ *A senior manager should ensure that when a professional from another agency expresses concern about its handling of a case, he/she reviews the file, meets and speaks to the professional concerned, and records in the case file the outcome of the discussion.*

❍ *A senior manager should ensure that all case conferences, reviews, meetings and discussions concerning vulnerable adults should involve the following four basic steps:*

(a) *A list of action points must be drawn up, each with an agreed timescale and the identity of the person responsible for implementation.*

(b) *A clear record of the discussion must be circulated to all those invited, whether or not they were present, and to all those with responsibility for an action point.*

(c) *A mechanism for reviewing completion of the agreed actions must be specified, together with the date upon which the first such review is to take place.*

(d) *Any supplementary actions that may be required as a contingency in the event of a breakdown in care arrangements or other changes in circumstances.*

An Audit/Review Checklist

The following checklist may be used to audit/review cases of vulnerable adults to assess the level of risk and determine the quality of service. It is indicative and not exhaustive.

- ❑ Is there an allocated worker with the necessary skills and experience to work with the complexities of the case?
- ❑ Has all the relevant information been gathered from agency files, police, health and other involved sources?
- ❑ Is there a chronology of significant events and are the implications of these events understood?
- ❑ Is there a comprehensive assessment of risk and need?
- ❑ Is there evidence that the experiences of family members/carers have been taken into account when assessing risk?
- ❑ Is there an appropriate care or protection plan that is being effectively implemented and that is demonstrably reducing the assessed risk?
- ❑ Has statutory intervention been considered and are the decisions in respect of this correct?
- ❑ Are copies of all minutes and records of decisions in the case files: have these been circulated to relevant individuals; and are the case records up to date?
- ❑ Is there evidence that the vulnerable adult is being seen and spoken to on his/her own on a regular basis by the allocated worker and have his/her living arrangements been seen?

- ❑ Is there evidence of good communication and collaboration between social work services, (eg community care, criminal justice and children's services and between social work and other key agencies eg health, police, housing, education)?

- ❑ Has the case been reviewed in accordance with procedures and has the individual been supported in contributing effectively to the review?

- ❑ Is there evidence that the staff member's handling of the case is subject to oversight/review by his/her line manager?

This document can be made available in other languages and is also on the local authorities' websites. If you have difficulty understanding English please contact:

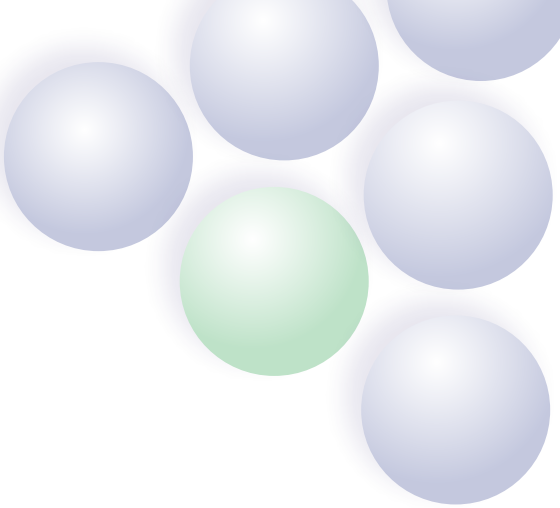
Dundee Translation Unit
Dundee City Council
Central Library
Wellgate Centre
DUNDEE
DD1 1DB

Tel 01382 431563

This document can be made available in Braille, large print - these can be arranged by contacting:

Dundee Local Authority
Social Care Services

Tel 01382 434000



Designed by Performance Planning & Management (2005524 - Nov 05)