



NHS Lothian

Adult Support & Protection Procedures

March 2023

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1. Introduction and Context

Under the 'Adult Support and Protection (Scotland) Act 2007' NHS Lothian has a Duty to Co-operate with any inquiries about adults at risk of harm. The 2007 Act sets out duties and powers to safeguard adults who may be at risk of harm. Adults covered by the Act are defined as any person over 16 years old who:

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

The above points are referred to as the "Three Point Criteria"

Local Authorities are the lead agencies for cases involving adults at risk of harm (unless a crime is known, or suspected to have occurred, in which case it is Police Scotland).

The Act states that, where required, the NHS will provide a nominated health professional to undertake any health assessments required. Staff should consult with the relevant manager in each department for direction as required.

NHS Lothian is duty bound to report any situations where harm is known or is suspected to have occurred to the relevant Local Authority and has a legal Duty to Co-operate with any investigation of suspected or actual harm.

As part of the application of the NHS Lothian procedures, staff that know or believe an adult is at risk of harm will use these procedures to take the appropriate action. The NHS Lothian procedures identify the key actions staff members must undertake and provide a consistent approach to communication with other agencies and to support the adult at risk of harm.

2. Aim of the Procedures

The aims of the procedures are to:

- Inform NHS Lothian Staff how to support and protect adults at risk of harm.
- Inform all staff who in the course of their work have contact with adults who may be at risk of harm, to follow these procedures to ensure that they are acting in accordance with their roles and responsibilities.
- Specify the responsibilities of staff members to take consistent and appropriate action in line with their professional guidelines, or to agree with their line manager on the appropriate course of action
- Provide guidance on who should assist with inquiries and attend case conferences.
- Support identification on who may be best placed to undertake any agreed health assessments.
- Provide a consistent approach to communicating and escalating concerns where NHS staff are involved in investigations and inquiries.

3. Scope

These Procedures apply to any staff member, including NHS volunteers who witnesses or suspects an adult may be at risk of harm.

All NHS staff should undertake the mandatory Public Protection eLearning module and/or Adult Support and Protection training relevant to their roles and responsibilities. Please refer to the Learning & Development Strategy found on NHS Lothian public protection intranet page.

4. Information Sharing

The protection of adults at risk of harm is everyone's responsibility. This cuts across all aspects of private life and professional business. We all have a responsibility and duty individually and collectively, to protect adults at risk in our communities.

Confidentiality is important but it is not an absolute right. Where information sharing is necessary for the protection of adults or where there is concern about an adult at risk, this should be done with confidence and without delay. Existing legislation, including the [UK General Data Protection Regulation \(UK GDPR\)](#) and the [Data Protection Act 2018](#), **does not prevent sharing** and/or exchanging relevant and proportionate information where there is belief or concern about the protection of adults at risk. This extends to all practitioners working with adults who may be at risk of harm.

The overarching principle underlying Part 1 of the Act is that any intervention in an individual's affairs should provide **benefit** to the individual and should be the **least restrictive** option of those that are available which will meet the purpose of the intervention.

Examination of health records as part of an adult protection investigation

Section 10 of the Act provides that a council officer may require any person holding health, financial or other records relating to an adult known or believed to be at risk, to give the records, or copies of them, to the officer, if this is required to establish whether further action is required to protect that adult from harm. This therefore applies to any adult from the point at which an inquiry has been initiated until such times as it has been determined that they are not an adult at risk of harm. In the case of health records, nothing in the Act authorises someone who is not a health professional to inspect health record.

Section 10 (7) defines health records as records relating to an individual's physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual. In the case of health records, the Council Officer is empowered by the Act to identify, take or copy medical records held by a service but having obtained them must ensure they are interpreted by a health professional. In some cases, it will be sufficient for a health practitioner to provide a summary of their involvement with the

adult and of the adult's physical or mental health, along with any relevant documents or reports. It should be noted however that Section 10 refers to existing records held by a professional or organisation rather than information created specifically to meet a request.

If you are asked for health records as part of a duty to inquire or an investigation, you must seek advice from your line manager, information governance and/or the public protection team regarding a recommendation for proportionate disclosure. This should be based on an informed clinical decision about what is relevant to the case. Any request for copies of a health record should be made formally, and a record of the disclosure recorded in the patient health record.

[Adult Support and Protection \(Scotland\) Act 2007: code of practice - gov.scot \(www.gov.scot\)](http://www.gov.scot/Resource/0/4/04009/nid24533/act20070001.pdf)

4.1 Duty to Report and Refer

While councils have the lead role in adult protection, effective intervention will only come about as a result of productive co-operation and communication between a range of agencies and professionals. What one person or public body knows may only be part of a wider picture. The multi-agency nature of adult support and protection work is crucial to the work of protecting adults from harm.

Section 5(3) of the Act places a duty on public bodies or office holders who know or believe that a person is an adult at risk of harm and that action needs to be taken to protect them from harm, to make a referral by reporting the facts and circumstances of the case to the council for the area in which the person is considered to be located. Public bodies should ensure that their staff are aware of the duty to refer and co-operate, and to encourage vigilance in relation to adults who may be at risk of harm.

If you witness or receive information about actual or suspected harm of an adult. Discuss this with your line manager / supervisor; if they are not available, discuss the concerns with a suitable alternative manager or the public protection team.

Regardless of whether you consider the adult is aware of and understands the risk to themselves, you must report your concern. There are persons that may engage in dangerous/potentially harmful behaviours that may need support.

If an Adult Support and Protection referral is required, agree who will make the referral by contacting the relevant local social work service. This can be done 24 hours a day (see Key Contacts page 18).

Information provided to social work services should include, (along with your own details and designation)

- Name
- Address
- Date of Birth
- Details of concern, risk and/or type of harm and source if known

Any additional key information regarding the adult that could impact on communication such as the need for an interpreter, cognitive impairment, concerns around the adult's capacity, or any other health or social circumstances that need to be taken into consideration by those providing support. Also details of any others that may be at risk.

Consider recording the event via Datix, the NHS Lothian Adverse Event Reporting Form

4.2 Consent / Non-Consent from Adult at Risk

Where possible and appropriate to do so, discuss the risk with the adult and your duty to report these, and where possible gain their consent and seek their views.

Where consent cannot be gained, whilst best practice to do so, you must report your concerns as you are duty bound to do so. Do not seek consent if you believe that you will increase the risk to the adult.

Where appropriate, ensure communication is ongoing, informing the adult of any actions to be taken to ensure their support and protection.

4.3 The Duty to Co-operate

The Act requires public bodies to co-operate with local councils and with each other, where harm is known or suspected, in this instance:

- the relevant Health Board

Examples of co-operation might be conducting an assessment, medical examination or interpretation of health records. The public bodies must advise the relevant council if they know or believe that a person is an adult at risk and that action needs to be taken to protect that person from harm.

4.4 The Duty to Inquire

Section 4 of the Act places a duty on councils to make inquiries about a person's well-being, property or financial affairs where the council knows or believes intervention may be necessary to protect the adult. A council may be assisted in its duty to inquire through various sources, for example, independent and third sector providers and statutory bodies. If information is requested by the council from health services, agree which health practitioner(s) are most appropriate to inform the inquiry. This may require discussion with your line manager.

4.5 Inter-Agency Referral Discussion (IRD)

An IRD may take place between social work, police and an NHS practitioner in relation to the adult at risk. The NHS representative is a senior member of staff who has undergone specific training and has access to the IRD recording system (eIRD). Where necessary any other agency providing a service to the adult or with an interest in the adult's welfare may contribute.

Social Work, Police and Health are responsible for recording an Inter-agency Referral Discussion (IRD); it may be initiated by any of the statutory agencies in line with the local Adult Support and Protection Procedures.

When an IRD takes place out with office hours, the emergency social work service will undertake the IRD.

The purpose of the IRD is to:

- Agree what protective measures may be required immediately to protect the individual at risk.
- To gather and share information about the adult involved to be able to assess risk, take protective actions and formulate a safety plan.
- To ensure a multi-agency approach to risk management and decision making
- To establish whether there is a need to use legislative measures.
- To determine whether a criminal investigation may be required.
- To establish the need for an Adult Support and Protection Case Conference.
- To decide what non-ASP support and protective measures are required.
- Decide whether a large-scale investigation is needed because more than one adult is at risk of harm.

The IRD provides a shared record of discussion and decisions reached including an interim safety plan.

The IRD will also consider the possible need to use the Appropriate Adult Scheme for supporting interviews with victims, witnesses or suspects of crime /suspected crime.

4.6 Adult Protection Case Conference

Where the need for an Adult Protection Case Conference (APCC) has been established at IRD, NHS staff may be required to participate in APCCs. Health professional representation at APCC should be prioritised and should be discussed with your line manager as to who is the most appropriate staff member is to attend. Participants must provide a report and a chronology. The report should include assessment and analysis which will support involvement in discussion and decisions in safety planning and risk management. The health representative may have responsibility for agreed actions in the plan and should consider if they need to share aspects of the plan with other involved health professionals.

The adult should be encouraged to participate in the development of the Adult Protection Plan.

4.7 Advocacy

At all stages throughout the process, consideration must be given to offer or/and provide appropriate services to promote involvement of the adult to take an active role to support and protect themselves and be consulted on any decisions affecting them including the safety plan.

This can include:

- Independent Advocacy.
- Assess what other support services may be required.
- Involve and take into consideration the views of significant others in the adult's life e.g. Power of Attorney / Carer / Spouse
- Encouraging the adult to participate in the development of the Adult and Support and Protection Plan.

4.8 Decision Making Capacity of the Adult

When communicating with an adult (aged 16 and over) at risk or/and in need of support, the adult's capacity should be considered.

Capacity is the ability to understand information relevant to a decision or action and to be able to appreciate the foreseeable consequences of taking or not taking that action or decision.

If required, a decision will need to be taken as to which clinical practitioner(s) should be undertaking an assessment of capacity. This could be a joint multi-disciplinary assessment involving relevant health & social care staff.

When undertaking an assessment of capacity, consideration should be given to:

- The ability of the adult to understand information relevant to the decision.
- The ability to retain the information long enough to use it to make an effective decision.
- The ability to use or weigh information as part of the process of making a decision.
- The ability to communicate the decision and ability to act upon the decision.
- Whether the adult has a mental disorder which is affecting the adult's capacity, or their inability to communicate because of a physical condition.

Medical practitioners can be involved in both the early stage of a multidisciplinary assessment process and/or where a formal assessment of capacity is required because an intervention under the Act is being proposed.

Doctors have principal responsibility for the formal assessment of capacity – in relation to money management under Part 3 (Access to Funds) and financial and/or personal welfare decision - making under Part 6 (intervention orders and guardianship). However, the importance of multi-disciplinary assessment is stressed in the Adult Support and Protection Code of Practice.

This does not cover the assessment of capacity in relation to medical treatment decisions or consent to medical research. [Adults with Incapacity \(Scotland\) Act 2000](#)

4.9 Emergency

If the person is in immediate danger, contact the appropriate emergency service. **Call 999.**

In hospital and/or clinical settings – follow emergency procedures.

Staff members must not put themselves at risk and should have due regard to appropriate policies e.g. Violence and Aggression, Lone Working.

The circumstances of the situation and any risks should be assessed. Consider action required to reduce the risk to the adult and any others that may also be at risk; including seeking help and support.

4.10 Support for Health Professionals

All staff should have access to advice and support, and they may seek this from their line manager or supervisor and include:

- Any debrief and/or emotional support that may be required for the staff member's wellbeing.
- Clarification of the staff member's role and level of responsibility.
- Offer help, advice and appropriate support in processes and procedures including recording.
- Staff and their line managers may seek further advice and support from the Public Protection Team

4.11 Documentation - Record Keeping and storage of documentation

If you have raised an adult support and protection (ASP) concern or you have been contacted and have shared information in relation to an adult you are working with, in connection with an ASP concern, you must record the detail in their health record.

- Record details of referrals you have made to police / social work in your progress notes on Trak.
- If you have been contacted by another professional e.g. a council officer undertaking a Duty to Inquire, record their name and role and contact details.
- Detail any information you have shared in the record (summary of salient points)
- Include the suspected/known type of harm from which the adult is at risk
- Include details of any safety measures/plans put in place to protect the adult (e.g. the adult has access to a phone to call for help, carers are aware of risk and any actions to take). Include timelines for review/follow up.
- If you are referring to an alleged perpetrator / other person involved, if you name or indicate who this person is, this entry can be inserted as a 3rd party entry on Trak. You can also anonymise them in the record by using terms such as their relationship to individual e.g. grandson, current/previous partner, friend and use initials.
- When you have raised a concern, consider whether you need to report the event via Datix, using Public Protection as the Main Category and Adult Protection as the Sub-Category.

Adult Protection Case Conferences (APCC)

If you are attending an Adult Protection Case Conference and/or review meetings; the documentation from the meeting should be recorded/stored in the patient records:

- In progress notes on TRAK, document that you attended the meeting, specify what type and who was present. Record the risks and action/safety plan. Indicate what actions you have responsibility for and the timeline for this to be reviewed.
- Upload your health report, chronology and the APCC minute to SCI Store using the 3rd party entry. If there is more than one health practitioner attending the APCC, you should agree who will upload the APCC minute, to avoid duplicates.

- In progress notes on Trak you can document/cross reference to where the Trak user can locate the APCC minute and or any reports / chronologies you have compiled. You do not have to upload any partner agency reports / restricted information.
- To upload to SCI Store in Trak, you click on EPR. On the left hand drop down near the bottom of the list, you will see the tab for SCI Doc Upload. Click here. You would complete the form, however for all 3rd party documents which include sensitive information including information related to 3rd parties and minutes from APCC you would click on “Document Category” and change to 3rd party documents. You would then click on “Document Subcategory” and change to All 3rd party documents.

All staff involved in any Adult Support and Protection incident must record all details in the patient record. Record keeping should be completed as soon as practicable after an event.

The records should be:

- Factual. Be explicit about the difference between facts with evidence and professional judgement.
- Compliant with relevant professional standards.
- Record the event via Datix, the NHS Lothian Adverse Event Reporting Form

Records may include:

- The risk / nature of the concern – information known and source.
- Record of discussions - people involved and their relationships, roles, include contact details of professionals.
- Actions.
- Decisions.
- Safety Plans.
- Review plans and timelines.
- Referrals received/made.
- The adult at risk’s own wishes and views.
- Concerns of restriction / confidentiality – if you are recording third party information including perhaps the name of an alleged perpetrator of harm – consider where and how this can be recorded. For example – third party section on TRAK, through use of

generic terms such as current partner and use of initials, nephew etc. Full details can be reported to social work/police and if recorded identifiably on TRAK/in health record – records can be redacted should there be a Subject Access Request.

4.12 Health Professional Statements to Police Scotland

You may be asked in the course of your work to provide a statement to the police. **You are obliged** to take part in any police investigation as an NHS employee.

If you are contacted by Police Scotland to provide a statement you need to advise your line manager as soon as possible to ensure appropriate support is available during the process. A Police Officer should arrange a suitable time to take your statement. You can be supported by your line manager, colleague (if not involved in the case/incident) or a staff side representative. These individuals can only offer support; they are unable to answer on your behalf. It is important to discuss this with the police officer in advance of the meeting.

More detailed Guidance can be found on the [NHS Lothian Public Protection Intranet Page](#).

5. Large Scale Investigations (LSI)

The Adult Support and Protection (Scotland) Act 2007 places a duty on councils to make inquiries where it is known or believed that an adult may be at risk of harm and where protective action may be required. The Act gives the Council the lead role in adult protection investigations and makes no distinction between NHS premises and other care settings.

When any part of the Council or Health and Social Care Partnership is made aware of concerns about a care service rather than in relation to individual users of that service, a decision as to the requirement to initiate a Large-Scale Investigation will be made by the local authority. Occasionally, concerns are raised that require further information to assist

the decision to progress to an LSI. This can lead to a discussion or meeting between relevant multi agency senior managers.

The care setting may be a care home; supported accommodation; an NHS hospital ward or other health facility, or where adults are in receipt of services at home.

Any actions that are required to safeguard adults at immediate risk should be taken straight away and should not wait for further stages in the procedure.

The Council has the lead role in co-ordinating the Large-Scale Investigation. The relevant locality or service manager will chair and have overall responsibility for arranging and conducting the meeting.

The Adult Protection Lead Officer of the APC should be notified. The Chair will identify the key agencies required to attend. Those attending should be of a sufficiently senior level to contribute to decision making and resource allocation if necessary.

The following agencies are likely to be invited:

- Representative(s) from the relevant locality team(s).
- NHS Lothian representative.
- Police Scotland representative (PPU).
- Care Inspectorate manager (if a registered care setting / provider).
- Representative(s) from any other local authorities who are funding placements for a service user(s) within the care setting concerned.
- Council Contracts Manager
- Council Communications Manager

The request for NHS Lothian representation should go through the Chief Nurse/Associate Nurse Director or Director of Public Protection in NHS Lothian and the medical clinical lead for the area. If senior managers are invited, they may bring / delegate attendance to relevant managers involved in the inquiry. However, the principle stated in point remains – all attendees should have sufficient seniority to allow effective decision making.

When the Local Authority and / or Police determine that an investigation / inquiry is to be made where harm is suspected, communication with and within health will be required for a number of reasons:

- Impact on health and wellbeing of those where harm is suspected.
- Potential impact on NHS operational activity immediately and in the future.

Potential impact on and of NHS and Local Authority contingency / business continuity plans on NHS activity – for example, if a ward area or care home is no longer accepting admissions or adults have to be accommodated elsewhere, NHS Lothian has overall responsibility for the healthcare of service users / patients within Lothian

Under the Adult Support and Protection (Scotland) Act 2007, NHS Lothian has a Duty to Co-operate with other NHS Boards, the Local Authority, Police Scotland, the Care Inspectorate, the Office of the Public Guardian and the Mental Welfare Commission in any inquiries about adults at risk of harm. Where required, the line manager of the service will provide a nominated health professional to undertake any health assessments required.

The Public Protection Lead for the IJB or HSCP (usually the Associate Nurse Director /Chief Nurse), in discussion with the NHS Lothian Public Protection Team will agree and allocate a Lead Manager, Clinician or Key Practitioner to support the Local Authority and to co-ordinate compliance with the Act.

Where one area of the health service may be subject to investigation under the Act, the Associate Nurse Director/Chief Nurse, in discussion with the Director of Public Protection will provide a Lead Manager for health (from another area) to participate in the investigation process.

If there is a Large-Scale Investigation within NHS Lothian or any of the Local Authorities or other care provider(s) in Edinburgh and Lothian (for instance, within a hospital ward or care home), an NHS Lothian Senior Manager will be involved. (Please refer to Pan Lothian LSI Procedure).

6. Communications

Media Enquiries

Managers should expect and prepare for media interest in any serious incident within NHS Lothian. Such interest is likely where an adult at risk of harm is involved. The NHS Lothian Communications Team needs to be informed when escalation of an incident takes place so they are prepared.

In all instances, external enquiries regarding any incident must be referred to the Communications Manager. They, along with the appropriate Executive Director, will agree a response to media enquiries. Communications with the media will only be via the Chief Operating Officer / IJB Director, the Head of Communications or another designated Senior Manager.

Media contact can be achieved through a variety of means, including a press conference, the releasing of a press statement or being available for ad hoc press enquiries.

It is important that NHS Lothian as an organisation is aware of investigations and inquiries which may impact on the health of NHS Lothian service users and patients, the development and support requirements of staff, and to learn from events that occur to continuously improve practice, behaviour and experience of service users, patients and staff.

7. Key Contacts

NHS Lothian Public Protection Team / Key Contacts can be found on the [Key NHS Lothian Contacts Intranet Page](#).

In an Emergency contact the appropriate emergency service

If the person is in immediate danger telephone 999

In a non-emergency, contact Police Scotland on 101/ NHS24 on 111

Scotland's Domestic Abuse and Forced Marriage Helpline

0800 027 1234

Social Work Services telephone numbers

West Lothian 01506 284848

WL out of hours 01506 281028 / 281024

Edinburgh (Social Care Direct) 0131 200 2324

Midlothian 0131 271 3900

East Lothian 01875 824 090

Out of hours for CEC, ML & EL Councils 0800 731 6969

Scottish Fire and Rescue Headquarters 0131 344 5200

Staff must not put themselves at risk and should consider appropriate NHS Lothian policies e.g. Lone Working.

8. References, Legislation, Policy, Guidance

Whilst not specifically included in the scope of this policy, staff will wish to be aware of the following legislation, information and guidance when applying these Procedures.

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

Accessed 18/03/2022

[Adults with Incapacity \(Scotland\) Act 2000](#)

Accessed 18/03/2022

[Adult Support and Protection \(Scotland\) Act 2007: code of practice - gov.scot \(www.gov.scot\)](#)

Accessed 15/12/2022

[Communicating and Assessing Capacity: A guide for social work and health care staff Scottish Government 2008](#)

Accessed 19/05/2022

[Data Protection Act 2018](#)

Accessed 20/04/2022

[Equality Act \(2010\)](#)

Accessed 18/03/2022

[Equally Safe: Scotland's strategy to eradicate violence against women](#)

Accessed 18/03/2022

[Forced Marriage in Scotland](#)

Accessed 18/03/2022

[Forensic Medical Services \(Victims of Sexual Offences\) \(Scotland\) Act 2021](#)

Accessed 18/03/2022

[Guide to the General Data Protection Regulation \(GDPR\)](#)

Accessed 08/06/2022

[Health Professionals Statements for Police Scotland](#)

Accessed 08/06/2022

[Human Trafficking and Exploitation \(Scotland\) Act 2015](#)

Accessed 18/03/2022

[Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)

Accessed 18/03/2022

[Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#)

Accessed 18/03/2022

[Sexual Offences \(Scotland\) Act 2009](#)

Accessed 18/03/2022

[Vulnerable Witnesses \(Scotland\) Act 2004](#)

Accessed 18/03/2022

9. Adult Support and Protection Committees NHS Lothian

Edinburgh City

[Edinburgh Adult Protection Committee](#)

Accessed 18/03/2022

East Lothian and Midlothian

[Supporting Safer Communities - Public Protection across East Lothian and Midlothian | Home \(emppc.org.uk\)](#)

Accessed 18/03/2022

West Lothian

[West Lothian Public Protection](#)

Accessed 18/03/2022