



Committee Approver	Operations Committee
Stakeholder Consultation	
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Related Documents	
Location of Electronic Copy	<i>F/live policies/corporate</i>

1. Viewpoint Values

Viewpoint is here to help people enjoy their later years. Everything we do is about realising this vision, which is supported by the following straightforward set of values:

- Inspire with positive smiles and words;
- Say ‘yes I can and I will’;
- Celebrate age, experience and wisdom;
- Do according to our customers’ wishes and ambitions;
- Treat people (everyone is a VIP) as we would a “loved one”;
- Work hard, have fun and laugh;
- Stay courageous, creative and ahead of the game; and
- Work with those that share our values.

These promises shape us. They’re a commitment to our tenants, residents, staff and suppliers. They are fundamental to every single plan, decision and project we embark on

2. Policy Statement

The Protection of Adults at Risk is not an option but a responsibility of Viewpoint, its staff and many agencies.

The expectation for all “at risk” adults in our care is that they are empowered, through support from Viewpoint as well as all the public services including police, health, housing, and care organisations, to be free from preventable harm. Viewpoint recognises that some adults are unable to protect /safeguard themselves and may be at risk of harm. Therefore Viewpoint is committed to up-holding tenants’ and residents’ rights to receive safe, dignified, care and support that protects them from harm as far as is reasonably practicable and have put in place safeguarding measures to reduce the likelihood of abuse occurring.

Viewpoint is committed to preventing harm to at risk adults by providing training to staff to help them identify the circumstances when harm might occur.

When harm is suspected or known to have occurred Viewpoint will have in place robust systems for reporting, recording and minimising the impact of that harm.

3. Purpose

Viewpoint is committed to the protection of adults at risk of harm. This policy and associated documents have been drawn up to enable Viewpoint to

promote awareness of harm and the actions that must be followed if harm is suspected. It aims to ensure that all involved in the delivery of Viewpoint services work in a way that prevents harm and minimises the risk of harm. We are committed to ensuring that our service users feel safe and listened to.

The policy sets out the legal definitions and requirements, Viewpoint's training commitment, levels of responsibility, and reporting and recording processes.

4. Legislation/related policies

In Scotland, there are 4 Acts of the Scottish Parliament which relate specifically to adult protection. These are;

- **Adults with Incapacity (Scotland) Act 2000**

This Act sets out the legal framework for regulating intervention in the affairs of adults who may not have the capacity to make important decisions about their finances or welfare. This incapacity may be as a result of mental health problems, a learning disability or dementia.

- **Mental Health (Care and Treatment) (Scotland) Act 2003**

This Act sets out powers and duties that can be used to support people with mental health difficulties.

- **The Adult Support and Protection (Scotland) Act 2007**

This Act provides duties, powers and measures for the support of adults who may be at risk of harm. It requires that any interventions into the life of an adult at risk must comply with certain principles that underpin the provisions of the Act. These principles are:

- (a) Any intervention in an adult's affairs must provide benefit to the adult
- (b) Any intervention into the adult's affairs should be the least restrictive option to the adult's freedom
- (c) Takes account of the wishes of the adult
- (d) This benefit could not be reasonably provided without intervention

- **Protection of Vulnerable Groups (Scotland) Act 2007**

Disclosure Scotland legislation was introduced in 2002. From 2007 it formed part of the Agency which operates the Protecting Vulnerable Groups Scheme (PVG Scheme). This scheme helps to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour.

A number of other Acts such as The Vulnerable Witness Act (Scotland) Act 2004, Sexual offences (Scotland) Act 2007 are also used by practitioners in Adult Protection.

This policy should be read in conjunction with *the Lothian and Borders Multi Agency Guidelines – Adult Support and Protection (2013)* as well as the following Viewpoint policies;

- Equality and Diversity
- Whistleblowing
- Complaints
- Confidentiality
- Data protection
- Safe Recruitment
- Dignity and Respect
- Restraint

5. Scope

This policy applies to all trustees, senior managers, all employed staff, volunteers, agency workers, students and anyone working on behalf of Viewpoint.

5.1 Definitions under the Act

5.1.1 “Adults at Risk”

An adult at Risk is an adult aged 16 or over who:

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

5.1.2 “Harm”

The Adult Support and Protection (Scotland) Act 2007 defines Harm as: *“Conduct on the part of another person that is causing, or likely to cause the adult to be harmed or conduct by the adult themselves that is likely to lead to self-harm”*

In the Act Harm “includes all harmful conduct” and in particular includes:

- (a) Conduct which causes physical harm
- (b) Conduct which caused psychological harm (e.g. by causing fear, alarm or distress)
- (c) Unlawful conduct which appropriate or adversely affects property, rights, or interests (e.g. theft, fraud, embezzlement or extortion)

(d) Conduct which causes self- harm.

Forms of Harm

- Physical Harm
- Sexual Harm
- Psychological Harm
- Harm caused by financial material or property abuse
- Harm through neglect and Acts of omission
- Harm through discrimination (e.g. - age, gender, race or faith)
- Harm through information misuse (e.g. - failure to adhere to the data protection Act)
- Institutional Harm (e.g. poor professional standards of practice, as a result of structures, policies and practices within the organisation)
- Harm through denial of human rights
- Self -Harm

5.1.3 “Risk of Harm”

An adult is at risk of harm if

- (a) Another person’s conduct is causing (or is likely to cause) the adult to be harmed.
- (b) The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self- harm.

5. 2. Training

Viewpoint is committed to ensuring that all trustees, senior managers and staff undertake Adult Support and Protection (ASP)/safeguarding training. ASP is a formal part of Viewpoint’s induction programme. Following the probationary period, all staff undertake ASP training and this is refreshed every year.

5. 3. Responsibilities.

Trustees; It is the responsibility of the Trustees to review and approve the ASP policy regularly and ensure effective governance of our approach to Adult Support and Protection. All trustees will be trained in this role.

Senior Managers: it is the responsibility of Directors and Senior Managers to ensure that their staff team are aware of the policy and attend training.

Staff teams: It is the responsibility of all staff to attend training as directed by their manager and as they are contractually required.

5.4 Reporting

Any report that an adult may be at risk of harm, including anonymous referrals must be taken seriously. In all instances, the information given must be reported to your line manager. In the event that the line manager is not available the person on call should be contacted for advice.

If you think that an adult may be at risk of harm, or you are told directly by a resident or tenant that they are being/have been abused, you should be aware that the adult may be feeling vulnerable or upset when disclosing this information. You should be supportive and reassure the adult by listening carefully but do not ask unnecessary questions. It is not your role to investigate.

5.4.1 Reporting Procedure;

- Advise the adult that the information will be passed on to your line manager and that social work services may be required to investigate further.
- When you feel it is appropriate to leave the resident or tenant who is disclosing the abuse, the information given by the person should be passed on immediately to your line manager.
- Where you are concerned for the immediate safety and wellbeing of an individual, and your manager is not on site, contact emergency services e.g. ambulance or police immediately. Do not delay. You can contact your line manager once you are satisfied that the person is safe.
- If you suspect that a criminal act has been committed, for example in cases of physical or sexual abuse, and your manager is not on site, you should contact the police immediately and steps should be taken to preserve evidence. You can then contact your line manager.
- If there is no line manager available on the day when the abuse is detected, you must contact the appropriate Adult Support Protection Agency in your area. These are; City of Edinburgh, Midlothian, East Lothian and Fife.
- If you are unhappy with the response from your manager, you should escalate to the manager's line manager, or in their absence, the appropriate Adult Support and Protection agency.
- If you are unhappy with the response from the Adult Support Protection Agency you can raise this through the complaints procedure and/or the Care Inspectorate in respect of care homes.

NOTE.

You should follow the above procedure for all instances of suspected abuse, for example, where you become aware of:

- Abuse by another resident or tenant
- Abuse by a member of staff
- Abuse by someone from within the community (family or friend)

5.4.2 Recording Procedure

- Write down the nature of your concern and anything the person may have told you, using as far as possible, the words used by the person.
- Write the notes as soon as is practically possible and while the information is still fresh in your memory.
- Sign and date the notes and give to your manager. This information will form the basis of the referral and will also be required if there is an investigation.
- This information will be held securely by the manager who will determine who this information can be shared with. (including the person's NOK or POA)

5.4.3 Referral Procedure

- The Manager is responsible for the referral process.
- In housing, the line manager will telephone the local social work contact and give details of the alleged abuse. In accordance with the Multi Agency Adult Protection procedures, the information should be followed up in writing within 24 hours using the Multi Agency referral form (AP1). Each Local Authority has their own AP1 form on their internet. See contact details in Appendix 1.
- The line manager must make a note of the following: The date and time that contact was made. Where contact cannot immediately be made, the reason for this must be recorded. Details of any unsuccessful attempts to make contact must also be recorded. The line manager must record the name, title and details of those contacted. And who should be contacted for future follow up and agreed further actions.
- In addition, where the adult at risk is care managed by a local authority social worker, the line manager should also contact the care manager directly.
- It should be recognised that in cases of suspected abuse, children involved in the situation might also be at risk and Child Protection Procedures may have to be invoked.
- In care homes, referral to Adult Support and Protection is made by e-mailing Social Care Direct. The email must only contain the resident's initials and the date of birth. If the resident is funded by a different Local Authority, inform them as well. Report the incident to Care Inspectorate

using the e- forms notification process. The responsible POA, Guardian or NOK must be informed of the incident timeously. Notifications must be completed within 24 hours of the incident or as soon as this is discovered.

Further guidance for care home staff in relation to Incidents between service users and Mental Capacity and Incapacity is included at Appendices 2 and 3.

6. Compliance & Support

The protection of adults at risk of harm is placed above all other operating principles and it is the responsibility of all Viewpoint staff to familiarise themselves with this policy and seek clarification from their manager if they have any questions about it.

Viewpoint staff have a duty to report concerns about an adult they suspect or know to be at risk of harm. Staff can feel confident that concerns raised with their manager will be treated confidentially. The policies listed on Page 4 of this policy, which includes the whistleblowing policy should be read in conjunction with this policy.

All staff and trustees are required to attend training on ASP appropriate to their role.

Non-adherence to this policy or failure to attend training as required by their manager may result in a disciplinary process.

7. Monitoring & Evaluation

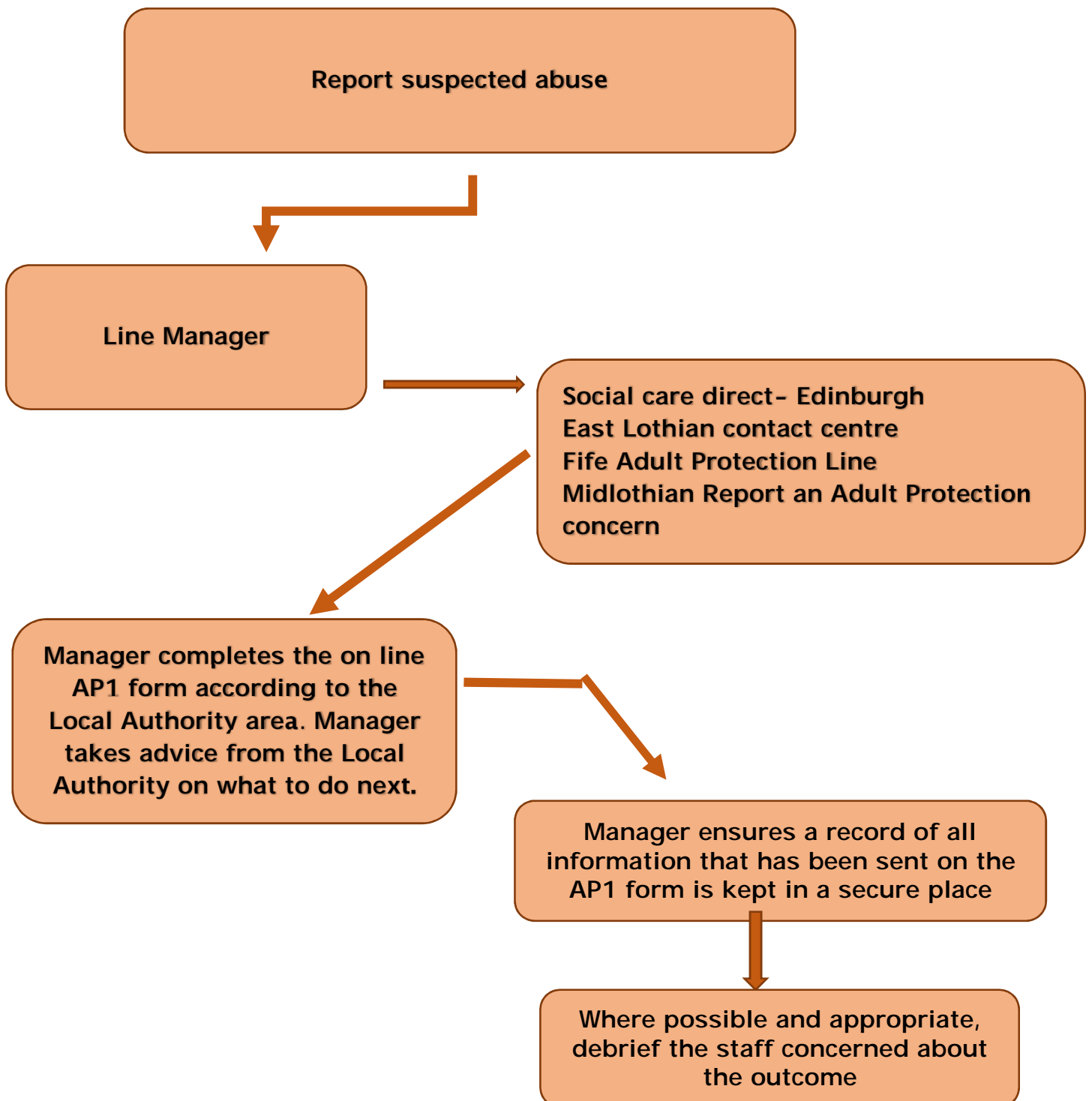
Care Home Managers will report all ASP issues raised and/or reports submitted to Social Care Direct and Care Inspectorate to the Head of Care. The Director will in turn report on the incidence of issues raised through the reporting process to the Board.

8. Timescales for Review

The Adult Support and Protection Policy will be reviewed every 3 years or as required when there is a change in legislation that underpins this policy and any other significant happenings that impact the purpose of the policy.

APPENDIX 1

FLOW CHART FOR REFFERAL PROCESS IN HOUSING

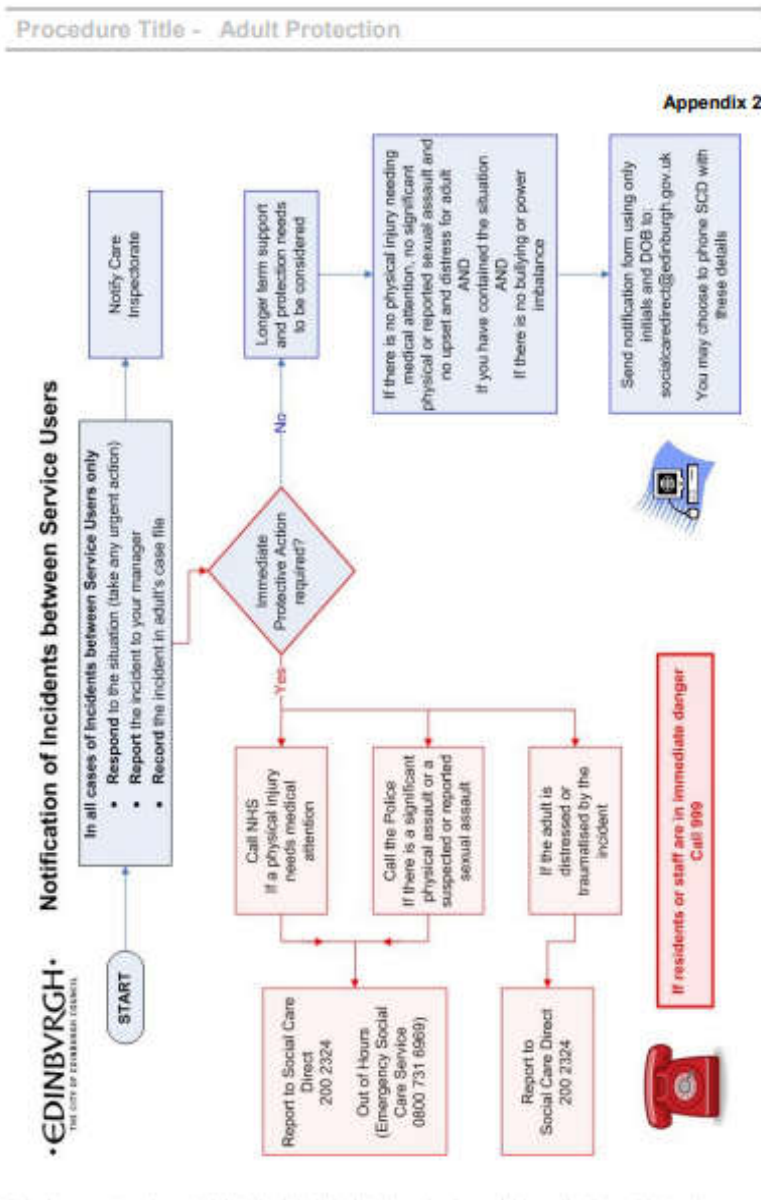


ASP CONTACT DETAILS FOR HOUSING

Council Area	Telephone number	Online Access
City of Edinburgh Council	Social Care Direct 0131 200 2324 Out of Hours Social Care 0800 731 6969	The online API form can be found at: https://www.webforms.edinburgh.gov.uk/site/portal/request/scd_generic_adult_prof . e-mail: socialcaredirect@edinburgh.gov.uk
East Lothian Council	East Lothian: Contact Centre: 01875 824 309 Out of hours: 08007316969	communityaccess@eastlothian.gov.uk
Fife	Adult Protection Line 0138602200. Out of hours	Report of harm referral can be found on the link: www.fife.gov.uk-adult-support-and-support-protection-staff-information-and-training . Email form to: sw.contactor@fife.gov.uk
Midlothian Council	Report an Adult Protection concern on: 01312713900 Out of hours: 08007316969	Report an adult protection concern online form can be found at: https://www.midlothian.gov.uk/xfp/form/251 Email the form to: accenquiries@midlothian.gov.uk

APPENDIX 2

Flow Chart for Incidents between Service Users



APPENDIX 3.

ADDITIONAL INFORMATION FOR CARE HOMES

Standard 2: I am fully involved in all decisions about my care and support.

When someone becomes incapable of managing their finances or making decisions about their welfare, the Adults with Incapacity (Scotland) Act 2000 provides protection for them. The act was created to protect people who have lost the capacity to communicate their needs and wishes. It applies to people with varying conditions such as brain injury, dementia, sensory impairment or learning disability or those who have suffered a stroke that has limited their ability to communicate.

A person may lack mental capacity if they are incapable of any of the following:

- Acting on decisions
- Making decisions
- Communicating decisions
- Understanding decisions
- Remembering decisions (retaining the memory or decisions)

Every effort should be made to help someone accomplish each of the above to the best of their ability.

Everyone who is over 16 years of age is presumed to have legal capacity.

This means everyone who is able has a right to make their own decisions.

What is Mental Capacity?

Put simply, mental capacity refers to our ability to make decisions for ourselves and to act on them at any given point in time. Mental capacity can fluctuate, day to day, hour to hour.

It is a common misconception that if someone becomes ill or unable to make decisions for themselves, a family member (such as a partner or adult child) can act on their behalf. No one has an automatic right to make decisions about someone else's life. This policy sets out the legal framework around

mental capacity and how it works in practice, so that staff are aware of their role in relation to what are often complex issues.

In addition to the above legislation, there are two laws that are pertinent to protecting people:

- The Adult Support and Protection (Scotland) Act 2007 was introduced to identify and protect adults at risk. This act is about achieving a balance between respecting someone's rights, while supporting and protecting them when necessary.
- The Mental Health (Care and Treatment) (Scotland) Act 2003 sets how someone can be given treatment if they have a mental illness, a learning disability or a personality disorder. It also sets out what a person's rights are in those situations.

The five key principles of the Adults with Incapacity (Scotland) Act 2000 are there to help. They are used by professionals, such as doctors, social workers, and attorneys (people who have been granted Power of Attorney), to help them make sure that all decisions made are in the person's best interests. Just as important, the principles act as a helpful guide to anyone involved in the everyday life of someone who may need support.

The principles are:

- Any action taken must benefit the person and must be necessary.
- The wishes of the person must be taken into account.
- The option taken should always be the least restrictive one to achieve the desired effect.
- Other relevant people must be consulted before a decision is made.
- The person must be encouraged to use their own skills and develop new skills where possible.

The best way to decide the way forward and what to do for the best in any scenario is to consider the five key principles.

Power of Attorney

This is only an option when the person has mental capacity at the time of the formal granting of the Power of Attorney (POA). The POA is a legal document that features statements called "powers". These powers give someone the authority to make specific decisions about someone's life, if they need help or lose the ability to make decisions for themselves. The person giving permission is the "granter" and whoever agrees to act on their behalf is the "attorney". The document should reflect the views of the granter, be personal to them, and ideally specify how and when they would like their attorney to use their powers.

Access to Funds Scheme

This is a way of accessing the adult's bank or building society account in order to meet their living costs. The person or organisation appointed is called a "withdrawer".

Guardianship Order

This type of order can cover property, financial matters, personal welfare, including health, a combination of these. This order is accessed via the Sheriff Court by individuals or the Local Authority, when no one else is applying and the adult has been assessed as needing a guardian.

Intervention Order

This is used when there is a single action or decision to be taken on behalf of the adult, e.g., a financial or property transaction or a legal action, such as the signing of a tenancy agreement. Such orders can cover both financial and welfare matters. Application is via Sheriff Court by an individual or Local Authority.

Medical Treatment Decisions

The principles apply and the doctor must seek consent from any welfare attorney or guardian, when they are in place and when it is practically reasonable to do so. When an adult has no proxy, a doctor is authorised to provide such treatments subject to safeguards and exceptions. When there is a disagreement, a second medical opinion must be sought. The Mental Welfare Commission holds a list of specialist doctors for this purpose.

Consent to Research

The Adults with Incapacity (Scotland) Act 2000 permits medical research involving an Adult who is incapacitated, subject to certain safeguards and exceptions. Codes of practice are in place and must be followed.

Relevant Person

The relevant person is the service user or in any of the following circumstances, a person lawfully acting on their behalf (this would only be someone with a POA or a court appointed deputy):

- On the death of a service user
- When the service user is under 16 and is not competent to make a decision in relation to their care and treatment
- When the service user is 16 or over and lacks capacity in relation to the matter.

Next of kin

The next of kin (NoK) is commonly used and there is a presumption that the person identified has certain rights and duties.

Health and social care colleagues should always consult the people closest to a person who lacks capacity to understand that person's wishes and feelings to help them make a decision that person's best interest. However, the person identified as the NoK should not be asked to sign and/consent to certain interventions unless they have a legal basis for doing so such as POA.

This is a mistake often made in hospitals, nursing or residential home settings, when family members are asked to sign care or end of life care plans and other treatment options and provide consent that is not legally valid.

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Mental Welfare Commission for Scotland. COVID-19 FAQs for practitioners (version 7, 30 April 2020) April 2020 APS Group. Annual statistical monitoring Corporate reports Advice notes COVID-19 FAQs for practitioners (version 7, 30 April 2020) April 2020 Advice notes COVID-19 FAQs for practitioners (version 24, 19 March 2021)
<https://www.mwscot.org.uk/node/1432>

<http://www.scottishhumanrights.com/news/commission-flags-human-rights-implicationsof-coronavirus-emergency-laws/>

Beyond..., what does Next of Kin Mean? <https://beyond.life/help-centre/admin-legal/next-kin-mean/>.

Crisis Prevention Institute and Restraint Reduction Network, Reducing Restrictive Practice check list: A Self-Assessment Tool to Help Organisations Ensure that the Use of Coercive and Restrictive Practice is Minimised and the Misuse and Abuse of Restraint Prevented.

[http://restrainededucationnetwork.org/wpcontentuploads/2016/11/Reducing Restrictive-practices-checklist.pdf](http://restrainededucationnetwork.org/wpcontentuploads/2016/11/Reducing-Restrictive-practices-checklist.pdf).

Note: The organisation will always take advice and guidance from inter-agency partners to ensure a consistent as planned approach in any situation that requires physical intervention. See Restraint policy.

Training Statement

This organisation is committed to the continuous improvement of its services and views staff learning and training as a core to delivering a quality service. With the Health and Social Care Standards and Principles, and associated codes of practice, we will take the opportunity to review our learning and training programme to ensure that the standards and principles are fully embedded and they are reflected in all we do.