

Towards
implementation
of **The Adult
Support and
Protection
(Scotland) Act
2007**

**3rd edition: August
2008**

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In this edition

Part 1 of the Act:

- funding to implement the Act which is scheduled to commence on 29 October 2008;
- lead professionals working on implementation activities;
- consultation on draft guidance for Adult Protection Committees; and
- outcome of our consultation on the draft code of practice and council officer regulations.

Part 2 of the Act:

- latest information on changes to the Adults with Incapacity (Scotland) Act 2000.

Part 3 of the Act:

- recently published research on the experience of people receiving self-directed support.

Part 4 of the Act:

- the implementation of the Mental Health Act Act 2007 for England and Wales plus new provisions for escorted patients visiting Scotland on leave of absence;

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

- update on implementation activities.

SurvivorScotland

- an overview of the Scottish Government's SurvivorScotland strategy for adult survivors of childhood sexual abuse.

We hope you find this newsletter helpful and welcome your feedback.

**Adult Protection Legislation Team
Scottish Government**

Funding

Agreement has now been reached with COSLA on funding. A total of £7.8m is to be made available to authorities for the period October 2008 to March 2009 to assist with implementation of the Act. An additional £0.2m will be allocated to the police for their specific functions in respect of the Act. Allocation letters have now been issued to Directors of Social Work. Distribution of funds will be through the Local Government Finance Settlement as a redetermination for 2008-09. The police element of the funding will be paid through local authorities.

Lead professionals working with the Adult Protection Legislation Team

We are indebted to our lead professionals, Bert Calder and Andrew Reid, who have been working with us on the implementation of the ASP Act. Bert's main focus was on identifying gaps in current adult protection research, developing training resources and undertaking a comparison of the ASP Act, the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003. Andrew's main focus was initially the development of a consultation paper on Adult Protection Committee guidance. In recent weeks he has been instrumental in the development and implementation of our training strategy and is currently running the regional and national training events.

Consultation on guidance for Adult Protection Committees

Section 47 of ASP requires Adult Protection Committees and councils to have regard to any guidance issued by the Scottish Ministers about their functions under sections 42 to 46 of the Act. A consultation on draft guidance took place between 20 May and 19 August 2008. Following analysis of the responses, the guidance will be finalised and issued.

Consultation: code of practice and definition of council officer

Part 1 of the ASP Act, scheduled to commence on 29 October 2008, introduces new measures for the protection of adults at risk of harm. Section 48 requires Ministers to prepare and consult on a code of practice containing guidance about the performance of functions under Part 1. Section 52(1) enables Ministers to restrict, by order, the type of individual who may be authorised by a council to perform council officer functions.

The consultation material, which was developed in collaboration with a national group of key stakeholders, was issued to over 700 individuals and organisations as well as being made available on the Scottish Government website. The target audience included local authorities, health boards, statutory bodies, academic institutions, voluntary organisations and

others who may be affected by the legislation.

A total of 59 responses were received. While this was less than 10% of those consulted, we believe this is attributable to considerable understanding and ownership by key stakeholders representing the public, voluntary and private sectors who were fully involved in the development of the consultation material. Aspects of the consultation were also relatively specialist and some consultees may have felt that they did not have the relevant expertise to comment. The revised code of practice and our policy proposals on the council officer regulations have taken account of all responses received, where relevant.

An analysis of the responses to the consultation is available at:

<http://www.scotland.gov.uk/Resource/Doc/231279/0063085.pdf>

The report of the consultation is available at:

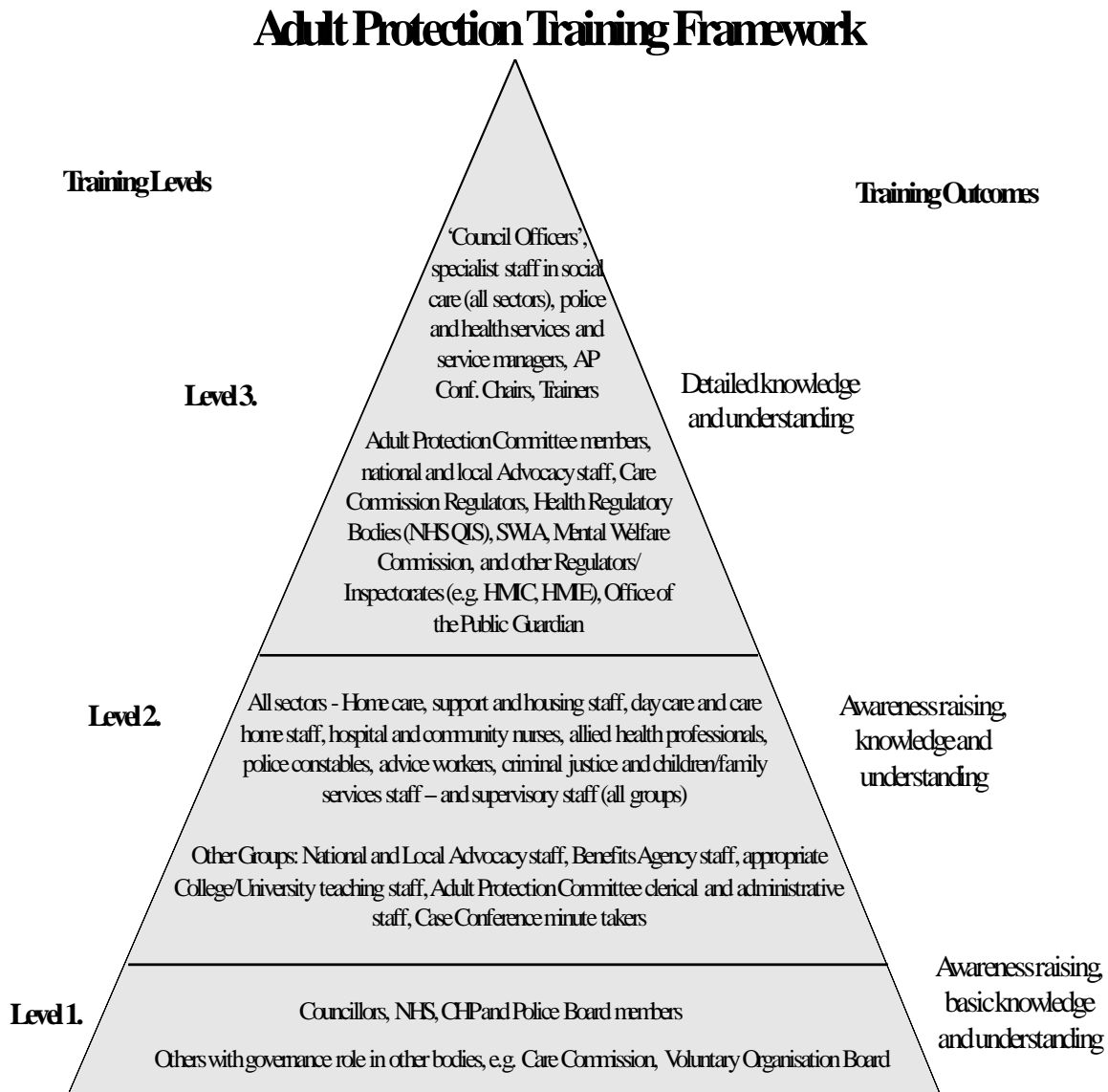
<http://www.scotland.gov.uk/Resource/Doc/231275/0063084.pdf>

The Code of Practice can be accessed at:
<http://www.scotland.gov.uk/Resource/Doc/232219/0063534.pdf>

Adult Support and Protection training material and events

As with other aspects of the ASP Act, key stakeholders have been involved in the development and implementation of our training strategy. Recognising that staff in statutory, voluntary and private organisations have different roles and

responsibilities in adult protection, a three-level model of training has been developed to address the training requirements for these different levels of knowledge and skills. This is represented in the following diagram:



Those in a governance role (level 1) require to have a basic awareness, knowledge and understanding of adult support and protection, sufficient to enable them to properly carry out their governance functions. At level 2, a range of staff require to have good awareness of adult protection issues, and a sufficient level of knowledge and understanding to

be able to respond appropriately to concerns they have whilst providing support or treatment. At level 3, specialist staff, trainers, Adult Protection Committee members and regulatory staff all need to have detailed knowledge of adult support and protection and certain highly developed skills.

We have developed a range of national training material and are running training events with the aim of ensuring a sufficient level of knowledge and understanding of the ASP Act and its implications for local procedures and practice.

We have run six two-day regional events in August, designed for those responsible for training level 3 staff in adult protection in councils, NHS, police, and the Care Commission. Their main purpose has been to 'train the trainers' in material which can then be used to roll out training at a local level. Three one-day national events are to be held during September in Edinburgh, Glasgow and Inverness. These events are targeted at trainers and key managers in voluntary and private sector service providing organisations, advocacy services and educational institutions, with statutory social work, health and police involvement in these events. Further information about these events can be accessed through this link: <http://conventions.nss.scot.nhs.uk/>

We are aware that a number of areas are already running their own training events in preparation for introduction of the ASP Act. Although national training materials have been developed, these may be

customised to take into account local procedures and guidance. The Level 1 and 2 training slides and briefing notes are available on our webpage which can be accessed through this link: <http://www.scotland.gov.uk/Topics/Health/care/VAUnit/ProtectingVA>] The training material for Level 3 staff will also shortly be available on this website.

There has been considerable goodwill from local authorities and others in working collaboratively and effectively with the Legislation Team on the development of training material. Much of the training material has been drawn from materials developed by social work, health and police service staff in Edinburgh, the Lothians, Scottish Borders, and Perth and Kinross.

Many thanks to everyone who has collaborated on this but a particular thanks must go to those who have so generously given their time and expertise to help run the training events - Val De souza from West Lothian, Mary Notman from Perth and Kinross, Anne Thomson from Midlothian and Rachael Watt from Scottish Borders.

Adults with incapacity (Part 2 of the Act)

The remainder of the changes made by the ASP Act to the Adults with Incapacity (Scotland) Act 2000 were commenced on 1 April. The codes of practice and some other publications have been revised and rebranded accordingly. The new publications can be accessed on the Scottish Government's Adults with Incapacity website at: www.scotland.gov.uk/Topics/Justice/Civil/awi/

Self directed support (Part 3 of the Act)

The Scottish Government recently commissioned and published research on the experience of people directing their own support. The research provides qualitative evidence of the experience of clients in receipt of self directed support and explores the innovative work that is happening in areas with a good track record in delivering self directed support. The report highlights how multiple funding streams, including health monies, can be combined within individual budgets to better meet the needs of the whole person. The research report can be found at: [A Review of Self Directed Support in Scotland](#)

Mental health (Part 4 of the Act)

The Department of Health (England and Wales)) has moved its implementation date for supervised community treatment orders to 3 November. The Mental Health Division within the Scottish Government is therefore reviewing implementation dates to ensure everything is in place for that date. The link to the DH website for the implementation of the Mental Health Act 2007 is:

www.dh.gov.uk/en/Healthcare/NationalServiceFrameworks/Mentalhealth/DH_4089608

Under the powers conferred on them by the Mental Health (Care and Treatment) (Scotland) Act 2003, in May 2008 Scottish Ministers introduced provisions for escorted mental health patients who visit Scotland whilst on leave of absence under the law of England and Wales, Northern Ireland, the Isle of Man or any of the Channel Islands (“a relevant territory”). The Mental Health (Cross-border Visits) (Scotland) Regulations 2008 can be accessed through this link: www.opsi.gov.uk/legislation/scotland/ssi2008/pdf/ssi_20080181_en.pdf

Protection of Vulnerable Groups (Scotland) Act 2007 (‘PVG Act)

The Scottish Government has published a detailed analysis of the consultation on policy proposals for secondary legislation required to deliver a robust vetting and barring scheme that will afford improved protection for children and protected adults from those individuals considered unsuitable to work with them. The consultation attracted 199 responses and takes into account information gathered from over 1000 people who attended a series of consultation events.

The scheme, including establishing a list of those unsuitable to work with protected adults in Scotland, will be implemented under the PVG Act. There will be further consultation, towards the end of 2008, on the significant draft Scottish Statutory Instruments required to implement the PVG scheme. Adam Ingram, Minister for Children and Early Years said: “It is vital that we make sure that people who are unsuitable do not gain access to children or protected adults through work, either paid or unpaid, and that those who become unsuitable are detected early and prevented

from continuing to work. That’s why we are driving forward with a dependable, efficient and strengthened scheme that strikes the right balance between proportionate protection and the need to ensure that the privacy rights of individuals are not unduly compromised.”

Ministers are now considering the detail of the analysis and expect to publish a full response after the Scottish Parliamentary summer recess. A date for the PVG scheme to commence is still to be determined by Ministers and will be announced well in advance to allow organisations and groups who work with vulnerable groups adequate time to prepare. Meantime, implementation activities continue, including the development of a comprehensive package of training and guidance that will be available in the run up to go live. The analysis of the consultation more information on the PVG scheme can be accessed at:

www.scotland.gov.uk/pvglegislation

Adult survivors of childhood sexual abuse consultation

The National Strategy for Adult Survivors of Childhood Sexual Abuse, now badged

as SurvivorScotland, sets out a strategic way forward to improve services for

survivors, to ensure greater priority and joined-up working in national and local mainstream services, and improve the lives of all who have suffered childhood trauma.

Through close working with survivors and the organisations that represent them, we have come to understand that for many survivors an acknowledgement of the abuse they have suffered may be of benefit. It is on this basis that the Scottish Government has begun to explore the use of an acknowledgement and accountability model. We hope that through that process

there will be an opportunity to give survivors a chance to speak about their experiences but also learn lessons to ensure that children in the future are better protected. We do not yet know the shape this will take as yet - like all developments in SurvivorScotland, the work is survivor led and we want to hear what they need and expect from it. A consultation on developing an acknowledgement and accountability model will be issued later this year. The SurvivorScotland website can be accessed at:

www.survivorscotland.org.uk

Contact details and links

If you would like to get in touch with any of the teams in the Scottish Government who are responsible for implementing the various parts of the ASP Act, you can do so as follows:

Part 1: Protection of adults at risk of harm

Adult Protection Legislation Team

2 East Rear, St Andrew's House

Edinburgh

EH1 3DG

Email: ASPUnit@scotland.gsi.gov.uk

Tel: 0131 244 3633

Part 2: Adults with incapacity

Family and property Law: Adults with Incapacity

2 West, St Andrews House

Edinburgh

EH1 3DG

Email: adultswithincapacity@scotland.gsi.gov.uk

Tel: 0131 244 3581

Part 3: Adult support etc.: miscellaneous amendments and repeals

Sections 62, 65 and 66 only:

Community Care Care Home and Cross Cutting Policy Branch

2 East Rear, St Andrews House

Edinburgh

EH1 3DG

Email: Jan.Raitt@scotland.gsi.gov.uk

Tel: 0131 244 3506

Sections 64 and 67: as Part 2 contact details

Part 4: Mental health – miscellaneous amendments and repeals

Mental Health Branch 3

3 East Rear, St Andrews House

Edinburgh

EH1 3DG

Email:

mentalhealthlaw@scotland.gsi.gov.uk

Tel: 0131 244 2283

Section 63: as Part 1 contact details

Previous editions of the newsletter, together with a short introduction to the Act and other related material, can be accessed through the following link:

www.scotland.gov.uk/Topics/Health/care/VAUnit/ProtectingVA