

CONSULTATION QUESTIONS

This consultation questionnaire sets out the consultation questions from within the relevant sections of the revised Adult Support & Protection Code of Practice.

The revised Code of Practice is a larger and more comprehensive document than the original Code and we welcome your views on any of the changes made. In particular, we would appreciate your views on the following matters.

Please insert your response to the questions in the text boxes provided.

RESPONSE

The consultation response involved members of the Adult Protection Committee from councils, health and police.

Question 1: Chapter 3

This chapter of the Code sets out the principles of the Adult Support and Protection legislation and the definition of an adult at risk.

Does this chapter help in your understanding of the legislation and whom it applies to?

If not, what changes would you suggest?

It was felt that this chapter will be helpful to practitioners in helping to understand the principles of the legislation giving useful guidance as to whom and when it applies.

The section on problematic alcohol and drug use was welcomed; in particular the emphasis on situation specific considerations and it was suggested that a similar section on people where self harm is a severe and enduring activity should also be included as this is frequently an issue in multi-agency practice.

The section on young people in transition is helpful but it was felt that more clarity could be given around age as defined in different protective legislation. ASPA defines an adult as someone over 16 but children's legislation and ECHR define children and young people up to the age of 18.

It was felt that the section on self-directed support is too vague, given the crucial interface between these two pieces of legislation.

There was disappointment that there was no mention of capacity issues and undue pressure, which are the areas within which it is anticipated there will be contention. This section needs to cross reference with the self-directed support guidance and it was recognised that this is still under development

People felt that it might be helpful to mention undue pressure as a

consideration right at the beginning alongside the definition and principles as in practice it can sometimes be seem a bit of an afterthought.

It was suggested that the “support” element of the definition could be highlighted to reflect that it is in this area where most of the work under the Act is undertaken.

Some people felt that case examples would be helpful as a way of illustration the principles in practice.

It was also noted that whilst APCs and multi-agency groups can have guidance, the legislative responsibility lies within each local authority.

Question 2: Chapter 5

This chapter of the Code considers the principle of ensuring full regard is given to the wishes of the adult, and ensuring that the adult participates in decisions as fully as possible.

Does this chapter adequately cover the issues arising from ensuring as far as possible full participation by adults in decision making?

If not, what changes would you suggest?

The inclusion of this chapter was viewed as particularly helpful in reminding practitioners of the importance of the adult’s participation and involvement in any ASP matters.

It should be noted that there are sometimes issues with regards to the timely availability of appropriate advocacy services

Question 3: Chapter 6

This chapter includes new guidance on large scale inquiries. Does this provide sufficient clarity for this type of inquiry or are there additional matters you would wish considered?

With regard to the section on **Large Scale Inquiries** in particular, differences in definition were recognised with some areas speaking of Large Scale **Inquiries** and others, Large Scale **Investigations**. We believe clarification on this would be helpful.

There was recognition of the Scottish Government project work going on in relation to Adult Support and Protection in care homes and independent hospitals, and this section will therefore need to be cross referenced with any national guidance developed. This section therefore cannot go into sufficient detail, but could be used to signpost to more detailed guidance.

General comments about chapter 6

Paragraph 7 gives more clarity around the threshold between inquiry and investigation and the explanation of the process of “Inquiry” as “collating and considering all relevant information” was deemed helpful.

The recognition of complexity around capacity or undue pressure where harm is alleged from an unpaid carer or Welfare Guardian was felt to be useful as was the reminder in paragraph 8 of the need for full consideration of the carer’s situation.

The section about what do where an adult at risk declines to participate and the council and partners’ responsibilities under the Act was welcomed.

The code does not really bring together the suite of legislation which is available in this area and people considered that more about the duties and powers available under AWI and mental health legislation and how the 3 Acts relate to one another would be helpful.

It was felt that there needs to be a brief outline of powers and duties available under all other possible legislation (e.g Public Health etc. (Scotland) Act 2008; Forced Marriage etc.(Protection and Jurisdiction) (Scotland) Act 2011, and others), which could signpost people.

Question 4: Chapter 11

This chapter is a new addition to the Code and considers a multi-agency approach. Does this provide sufficient clarity and support for your organisation in handling multi-agency assessments and practice?

Are there other matters that you consider should be included in this chapter?

Overall this chapter was deemed helpful, and it was noted that the Code of Practice speaks about shared accountability. The legislation however, designates the local authority as having the lead responsibility and it was felt this might be seen as contradictory. Whilst the Act is clear that other agencies have a duty to cooperate with any enquiries which the council is undertaking, it would be helpful to have more clarity on what is meant by shared accountability – accountability to whom? People felt that this chapter would be strengthened by the inclusion of good practice guidance from those professional groups and agencies (e.g GPs and third sector agencies) who are not covered by the statute.

It was also felt that a helpful addition would be that when a case has been managed under Adult Support and Protection, the decision to end Adult Protection processes should be a multi-agency decision.

Some people felt that the section on multi-agency planning and review meetings should include guidance on the benefits of having an independent chair who has no involvement with the case and who could offer consistency throughout the ASP process.

Question 5: Users and Carers

The Code seeks to develop and articulate good practice as regards service user and carer involvement, particularly in chapters 5 and 16. Does it succeed in this? If not please suggest ways in which this area could be improved on.

Yes

Question 6:

Do you consider this revised Code of Practice will enable you to carry out your professional responsibilities effectively? Please feel free to comment on any areas of the Code which you consider could be improved in any way.

It was felt that the revised code of practice is much clearer for practitioners; however a further suggestion is the use of case examples to highlight areas of good practice would be useful.

Any further comments

It was felt that generally, the preventative element of Adult Support and Protection in terms of risk assessments and protection plans could be significantly strengthened in the Code.

With regard to the section about who can act as a council officer for the purposes of the Act (in Chapter 4) it was strongly felt that the inclusion of paragraph 11 about arrangements in Highland council leads to a hypothesis about the legitimacy of these arrangements and an assumption that this is the way forward across Scotland. We are not aware of this being the case and suggest that a statement about the planned integration of services and further discussions (and amendment to the Code) will be required going forward.