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.

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?

This section of the guidance helpfully explains the status of problematic substance misuse within adult protection.

In respect to the section "Young people in transition" the sentence under point 17, at the foot of page 27, does not appear to be finished.

This section on **young people in transition** could be helpfully expanded to clarify the duties and powers that local authorities have for young people over 16 years under the Children Scotland Act. The reason this would be helpful is to do with the principles of the Act. Continued support under childcare legislation may be a less intrusive option than action under adult protection legislation. We believe this is important because the introduction of Health and Social Care Partnerships and the integration of social work/social care services for adults and the NHS risks the possible weakening of the current links between Adult and Children & Families work.

The section in respect to **self directed support** is welcome and the linking of adult protection to self directed support is well made.

There are, however, places where an understandable use of jargon perhaps disguises the meaning. For example a "Plain English" version of the sentence below might improve this section.

"Social care best practice emphasises the need to support all adults to identify their personal outcomes and to decide how they should meet these outcomes" **(page 29 paragraph 24)**.

We are not entirely convinced that all of the contents of paragraph 24 on page 29 should necessarily be in the COP. Paragraph 24 reads as if it were

part of guidance aimed at Self Directed Support (SDS) practitioners rather than adult protection. For example;

"The emphasis should be on an integrated approach to ensure that sound protection procedures are in place and that those procedures deliver flexible, innovative care and support, enhancing an individuals' rights to determine their own support arrangements." -

sounds like guidance for local authorities and their NHS partners on the need to consider protection issues when implementing SDS. We would argue that its inclusion in the COP is inappropriate.

The (not unreasonable) suggestion that "Adult Protection Committees should review their procedures" as a result of self directed support seems out of place. Such a review would be a "one off" action, rather than assistance to practitioners using the COP in respect to managing adult protection cases. Its inclusion will make the Codes of Practice look quickly dated and attached to the time SDS was being introduced. This could undermine the relevance of the COP as time passes, unless redrafts are anticipated every couple of years. We feel that it would be worth considering either deletion of the latter part of paragraph 24 on page 29, or a significant redrafting.

We have concerns that Page 30, paragraph 29, and its statement that multi agency meetings should be as "inclusive as possible" may not be appropriate. Many "adults at risk" find meetings especially formal meetings quite hard. In such cases such meetings need to be tailored to the needs and wishes of the adult at risk. The notion that a meeting has to always be as "inclusive as possible" is to encourage large meetings with many attendees; exactly the sort of meeting that will put off or intimidate many adults at risk. The COP as drafted could encourage bad rather than good practice is this regard.

There is also a concern that the COP, in chapter 3 as a whole does not use the phrase "adult protection case conference" preferring the term "multi agency meeting". Since this section (paragraph 29) gets the COP into making suggestions as to what is good practice, the lack of clarity regards different sorts of meetings is problematic. For example, a multi agency meeting or an initial referral discussion planning how the investigation is to be carried out may necessarily and rightly not include the adult at risk; whereas an adult protection case conference should (almost) always include the adult at risk. The use of the term "multi agency meeting" is not defined and its use throughout the COP is confusing. It is simply insufficiently specific to assist practitioners know when the guidance would, in fact, be applicable.

The last paragraph on page 30 paragraph 29, last sentence, is ungrammatical, and does need to be rewritten. It is also unhelpful and again possibly bad practice to suggest "a multi agency meeting" on an adult at risk should only plan "for meetings to agree a plan" to address risks.

Far better practice would be to say that (for example):

"Multi agency procedures should give guidance on the convening of meetings to plan an investigation (usually a multi agency workers' meeting) and on the convening of adult protection case conferences.

Urgent or imminent risks must be subject to urgent action prior to a case conference. However an adult protection case conference should always decide:

- *whether the adult is "an adult at risk"*

and if the adult is an "adult at risk"

- *whether the risks to the adult are sufficiently serious to warrant a formal plan for the adult's protection*

and if the risks are sufficiently serious

- *to agree clearly accountable, time bound recommendations which will form the initial (or continued) adult protection plan".*

Every adult protection case conference that agrees that an adult at risk needs a protection plan should at the very least agree the "bare bones" of an initial adult protection plan rather than suggest this be done at some future meeting. Consideration of a redrafting of Paragraph 29 of chapter 3 along the lines suggested is recommended.

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?

Comments made previously about the absence of the use of the term "adult protection case conference" in the COP apply in this case. It would be practically impossible to include, in a "multi agency meeting", the adult at risk, if, for example, the multi agency meeting's purpose was for the agencies involved to plan how the adult at risk should be approached as part of the investigation process.

We welcome the section on Independent advocacy services (Page 37 paragraph 5) and support the suggestion that the reasons for considering that such a service is inappropriate should be recorded as this may provide

information that may identify measures that can be taken to increase take up of this service.

Page 38 provides detail in respect to the precise responsibilities of a chair of a multi agency meeting, in terms of facilitating the adult at risk's participation. This may be too prescriptive. It might for example be very good practice for the social worker for the adult at risk to have addressed the needs of the adult at risk in terms of venue, travel, interpreter and advocate prior to the meeting. It is unclear why the COP states that the person chairing the meeting must be responsible for **all** these matters. It may be that the COP should not be quite as dogmatic about the precise roles of those responsible for the arrangements for a variety of meetings as the new draft currently reads. The important thing is that the matters are addressed rather than which person actually addresses them.

Paragraph 13 on page 39 is helpful. It makes it clear that the **adult at risk's** views should be given priority regarding the other attendees. This does however contradict what is previously stated in the COP - Page 30, point 29, and its statement that "multi agency meetings should be as "inclusive as possible".

The paragraph 17, page 39, states that "local protocols" should lay out the timescale for adults at risk being visited after a multi agency meeting. There are problems with this and other difficulties in this paragraph as follows:

- The term "multi agency meeting" is again confusing in this context
- The term "local protocol" is confusing in paragraph 17. Better would be to say that *"after an adult protection case conference, the adult at risk should be visited as soon as possible to ensure that, as far as possible, they understand what the case conference decided and how decisions were reached"*.
- There seems to be an assumption in paragraph 17 that a "carer" always has a right to very private and confidential information about an adult at risk. This assumption could lead to breaches of article 8 of the Human Rights Act 1998. Consideration could be given to a rewording of this paragraph.

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?

In Chapter 6, page 42, paragraph 4, it would be very helpful, if the section on referrals made it clear that making adult protection referrals is a statutory duty for public bodies under 5(3) of the Act. Examples of cases where public bodies are legally required to make referrals would be helpful.

The heading "Initial Inquiries" on page 42 may be unhelpful as it introduces a new sub-division in the referral – inquiry – investigation spectrum of responses. Better would be to keep the simple term "inquiry".

In paragraph 6, it states that "inquiries" will be carried out by the "council's social work services". This is currently true, except in Highland where Health and Social Care Integration makes this part of the NHS' responsibilities.

It would be helpful to make it clear that the duty to make "inquiries" is likely to be assumed by the new local Health and Social Care Partnership's post "Integration", and to allow current practice in Highland to be in line with the redrafted COP.

Paragraphs 10-14 in respect to "large scale investigations" are clear and helpful.

In the section "possible intervention outwith or in conjunction with the Act" pages 44 and 45, a helpful addition would be to refer to the duties and powers available to local authorities under childcare legislation for the reasons detailed in our answer to Question 1 above.

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?

The reference to "multi agency meetings" in this chapter has the same difficulties referred to previously, as does the reference to these meetings being "as inclusive as possible" without reference to the needs or wishes of service users.

The fact is that the term "multi agency planning and review meetings" in the context of this section is one that clearly refers to adult protection initial and review case conferences. Since the number of "case conferences" is something already being measured across Scotland and included as a term in the likely statistical pro forma to be used to aid "benchmarking" across Scotland, it seems appropriate for the term "case conferences" to be used in this section. It would certainly reduce ambiguity and aid clarity.

The suggestion that the lead role in adult protection will "usually be the council" is already dated in some areas (Highland), and will become increasingly dated as Health and Social Care Partnerships develop in line with recent legislation.

We are unsure whether the new section (Chapter 11) actually adds very much to the COP.

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.

The COP does succeed in its aim in respect to service user involvement in chapters 5 and 16. The section on carers in Chapter 5, paragraphs 18-22, is especially welcomed.

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.

This question is addressed in the comments throughout this response and under "Any further comments" below.

Any further comments

General comments about the Codes of Practice - (COP) and comments about the COP chapters not covered in the questions specified above.

General Comments
Overall the Angus the Adult Protection Committee welcomes the more detailed guidance provided and believes it will offer significant assistance to practitioners over the mid to long term.

It would be far easier to use the COP if the contents section (pages 13 to 16) included specific page numbers as well as chapter numbers. This would preclude the need to spend time sifting through many pages to find the guidance on specific subjects. This is important, as greater ease of use is likely to make the COP more widely and regularly used.

In agreeing and drafting of a final version of the revised COP we believe it may be worth considering three matters.

1. The use of the term "multi agency meetings" is used throughout the COP instead of the term "adult protection case conferences". We find this confusing and unhelpful.

   "Multi agency meetings" actually occur at a number of different stages in cases where adult protection matters are considered.

   For example some authorities have multi agency meetings (early screening groups) to consider police "adult concern reports". Other authorities have multi agency meetings (initial referral discussions) following an adult protection referral to plan a specific investigation.

As illustrated in the comments above the terms "multi agency meeting" is too general. It's use undermines the "good practice" suggestion that adults at risk should usually attend and be aided to attend all "multi agency meetings" as experience is such that this would be impractical in the examples given above.

2. Insufficient recognition is given to the growth of Health and Social Care Partnerships and the need for these new bodies to be at the centre of adult protection work. We believe that these new partnerships afford an opportunity for the greater integration of the adult protection culture into the NHS in particular. The COP does not recognise this and therefore misses the opportunity that the revision of the COP affords. This point is illustrated by the repeated reference to the lead role currently legally accorded to the local authorities alone. This is about to change; indeed has already changed in one Scottish local authority area.

3. The revised COP misses the opportunity to emphasise the legal duties of public bodies under Section 5 of the Act. Experience from across Scotland suggests that some of the public bodies named in the Act have not acted in accordance with these legal duties as thoroughly as perhaps anticipated. The revision of the COP can assist in addressing this matter by providing clear examples of when a public body must make adult protection referrals. This issue is referred to in some of the specific comments made above.

Specific Chapters

Chapter 1 is clear and concise. It describes the purpose and status of the COP but not the structure. Chapter 1 would be better if the last section of chapter 2 (Introduction to the Act) were included at the end of Chapter 1. This section, "How is this Code structured" could be a lot shorter and much more concise if page numbers were included in the contents section.

Chapter 2 has a list of bullet points under "What does Part 1 of the Act do?" These include reference to the legal requirements the Act places on "Public Bodies". This would be much more helpful and more complete if it spelt out very clearly the legal duty of the public bodies to report adult protection cases to the respective local authority under 5(3) of the Act.

Chapter 2 begins the guidance in respect the operation of the Act, but then reverts to the chapter 1 topic – the structure etc of the COP itself. As stated above the section "How is this Code structured" fits more logically at the end of Chapter 1. It could far more concise if page numbers were included in the contents section.

Chapter 4 discusses the question of "who can act as a council officer under the Act". Missing from the discussion is any reference to the Scottish Government's guidance entitled "The Role of the Registered Social Worker" 2009 (http://www.scotland.gov.uk/Publications/2010/03/05091627/2).

Examination and inclusion of this guidance might improve page 33 of the COP.

Also in chapter 4 is a section on the **duty to co-operate**. This section does contain reference to Section 5(3) of the Act; however consideration might be given to emphasising what this means for public bodies in practice.

A separate heading – **Duty of public bodies to make adult protection referrals** – followed initially by the extract from the legislation, could be usefully followed by a clear explanation of what this means.

So that the existing text that reads "…..must report the facts and circumstances of the case to the council for the area where they believe the person to be located" could be followed by:

"What this means is that, without exception, a public body must make an adult protection referral to the local authority whenever they know of anyone who might meet the criteria to be considered an adult at risk (the 3 point test) specified in Section 3 of the Act".

Consideration of the merits of rewriting this part of chapter 4 along the lines suggested above is recommended.

Also in chapter 4 are two paragraphs about **General Practitioners** (page 36, paragraphs 19-20). We feel that these 2 paragraphs could be strengthened to make it clear the expectations in terms of GP's and adult protection matters including GP referrals and co-operation with adult protection investigations.

Chapter 10 may benefit from a brief comment on devolved powers, as experience now shows that there are difficulties in obtaining records and information from UK organisations such as the Dept. of Work and Pensions.