

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?

The definition of 'unable' is considered helpful for practitioners; however other definitions would also be welcomed. Specifically a definition for physical or mental infirmity.

A definition of physical & mental infirmity may be particularly helpful for practitioners when considering the use of the act for young people in transition; for adults with problem drug and alcohol use; and, for adults affected by gender based violence. Please see further in this comment box the reason why.

The section on 'Problematic alcohol and drug use' in its current format is not helpful in promoting best practice. The term problematic alcohol and drug use should be reconsidered. This is not in keeping with current Scottish Government guidance which talks about problem alcohol and/or drug use.

Point 13 should be more detailed for practitioners and needs to be reworded. Use of the phrase 'lack of ability to safeguard' is confusing and the language is not consistent with what is in the act. 'Unable to safeguard' should be used given that a definition is provided in point 11 of this chapter. The phrase 'temporary problematic alcohol or drug use' needs to be defined or best practice pointers should be given. Again current Scottish Government guidance should be considered. Definitions used in guidelines for children affected by parental alcohol and/or drug use would be helpful here as the language used has been carefully chosen so as to avoid language that implies value judgements and negative connotations.

It would be beneficial if the CoP prompted practitioners to consider the background of the Adult and the focus to be on risk assessment firstly. Are they are unable i.e. lacking the skills, means and opportunity, because of

issues from their background or previous life experiences. This is where the definition of infirmity would be helpful. Oxford English dictionary defines infirmity as a physical or mental weakness and weak is defined as lacking power or influence. Practitioners should question if an adult who has experienced significant harm as a child and/or as an adult, could be mentally infirm at times or in specific situations when using the Oxford definition above.

Again infirmity, if defined, could be beneficial to practitioners when considering Gender Based Violence and revictimisation.

In Point 13 the use of the term indulge was not considered helpful for practitioners. Again using the Oxford English Dictionary for a definition, it states that indulge is to *allow oneself to enjoy the pleasure of*. Adults who have problem alcohol and drug use may consider their use as pleasurable at times but would a professional assess this or is that the opinion and view of the adult. Again drawing attention to the adults past experiences should be highlighted here to help with some of that professional and defensible decision making.

Also definitions would again be helpful for practitioners on problem drug use, drug dependence, problem alcohol use, hazardous or harmful drinking and alcohol dependence. A suggestion would be to consult with STRADA and look to the Hidden Harm (2003) document.

In both points 13 & 14 the language appears to be judgemental and could lead to some practitioners considering what adults are deserving or undeserving of support & protection.

It is particularly welcomed in point 15 that specific reference is made that *inquiries should be made each time*. However this is not just in relation to Adults with problem alcohol and drug use. This point should be repeated under chapter 4 and emphasised further.

Point 16 is also welcomed as evidence that social work services can still offer support and intervene under other legislation apart from the Adult Support & Protection Act. However this point does not sit well with the current language used in point 13 "*choose to remain in situations or indulge in behaviour which others consider inappropriate*"

Point 17 & 18 were felt not to go far enough. Again best practice points should be highlighted. Some points for practitioners to consider is when cases should be highlighted, who will lead on cases and agreeing a communication strategy were just a few that would help in developing these points. Children's legislation should also be considered.

It is acknowledged that the statement being made in Point 19 is useful for future planning and strategic planning. However it is questioned whether this sits in a CoP.

It was felt that point 24 is too lengthy. This section may need to be altered once the final guidance and regulation for SDS are available. It is not seen as helpful to social work practitioners with regards what particular practice they should be considering. A point about undue pressure if a family member is employed might be worth mentioning. Again the mention of the APC is not seen as fitting within the CoP.

Point 26 again refers to the APC. It would be recommended that reference is made that all practitioners should be familiar with their ASP multi agency guidance and procedures.

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 beginning of this chapter is very person centred towards the adult. Very helpful points are made to enable the adult to communicate more effectively and so participate as fully as possible. The only additional point would be for practitioners to consider not only the environment where conversations with the adult take place but also to consider the time of day and to be aware who else is around.

In point 5 it is welcomed that Independent advocacy and other appropriate services should be considered and the decision should be recorded and reviewed at various points. This promotes best practice and is in keeping with the principles.

Whilst the tool mentioned in point 13 is viewed as useful it is felt that rather than provide a link the salient points of best practice that need to be considered should be detailed. If the CoP is for practitioners to promote best practice, then detail those best practice points in the CoP document along with the link/reference at the back.

Point 14 again refers to the APCs and whilst a valid point is made it raises the question again who this document is for.

In relations to carer and adults disagreements as mentioned in point 19 it would be recommended that practitioners clearly record differences in opinion and this is clearly recorded also at any case conferences.

The reference made to appropriate adult schemes is useful although may be somewhat lengthy. Again a link is not particularly useful. This point may

also be more appropriately placed or referred to again in the chapter covering investigations.

It is recommended that point 24 should be located elsewhere within the CoP perhaps in the chapter under investigations. Again just a link to a tool was not felt to be enough and a few points on best practice from that document should be detailed.

Point 25 should be removed from this chapter and again raises the point that a separate document for the APC be considered for the inclusion of that point.

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?

Point 14 refers to *local* AP procedures. It is recommended that interagency procedures would give more clarity as it's not clear what is meant by local i.e. single agency or interagency.

In point 18 independent interventions are referred to. Renfrewshire social work services would welcome a definition on what an independent intervention is.

Reference to the other Acts that make up the suite of legislation is appropriate, as is reference to the Social Work (Scotland) Act 1968. However it should be made explicit that different pieces of legislation including the Adult Support & Protection (Scotland) Act 2007 can be used at the same time in conjunction with each other.

Point 20 attempts to advise practitioners that other legislation outwith those mentioned in the previous point could be useful. However it falls short as it only makes reference to 2 pieces of legislation. It would be recommended that practitioners be prompted to consider other legislation and are directed to an appendices at the end of the CoP listing these. It would also be recommended that practitioners are directed to discuss with their legal services other measures that the local authority can consider applying for or that the adult can be supported to apply for.

Clarity on what is meant by "producing a report" where it is decided no further action is required following an inquiry would be welcomed. It is recommended that this point should state that it is clearly that the decision should be recorded within the adult's casenotes instead. Also clarification on what is *no further action* is required. Does it mean no further action under ASPA or no further action under any legislation?

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?

It is recommended that multi agency meeting be replaced by ASP case conferences so that it is clear as other multi agency meetings can occur under other legislation whilst the adult is subject to intervention under ASPA. Also it is agreed that protection plans should be discussed at case conference as it is agreed that this is what follows an investigation.

Point 5 is welcomed specifically the statement about shared accountability.

It is recommended that within this chapter reference is made that there may be dissent and the importance of recording this. Within this chapter reference should be made to all agencies response to ASP referrals should be consistent in resource allocation and it should be clearly recorded if this cannot occur and why. If this follows an ASP case conference. This should be reported to the chair of that meeting.

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.

From chapter 5 it is clear that the adult should be at the centre of all the decisions made throughout the process. It makes reference to best practice for involving the adult and carers and in supporting them to participate as fully as possible. A specific chapter in the CoP on participation on decision making is extremely useful.

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.

Renfrewshire Social Work Service believes the CoP should be for practitioners and promote best practice throughout. In its present form it is not seen as a useful tool for practitioners.

The revised CoP still falls short as a useful document for practitioners to use to promote best practice. In comparison to the CoP for the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2001 it is not laid out particularly well (e.g. page numbers on the contents page) and is viewed as very piecemeal. It is confusing as to who the CoP are for. Are they a tool for practitioners or for the APC? They cannot be both as they don't sit well together.

It is recommended that a separate document for the APC be devised and within that reference could be made with how that committee links with CPC's, ADP's, COG etc. The national guidance for Child Protection covers the above and as a document it might be useful to look at how that is structured for the purposes of Adult Support & Protection.

In the chapters that cover protection orders again a definition of serious harm would be helpful. It is suggested that the definition in the FRAME document issued by the Risk Management Authority would be useful.

Also in relation to protection orders more guidance should be given about executing an order and who and what practitioners need to think about. There is some mention of contingency planning but more emphasis could be placed on this.

Any further comments

It would be recommended that where links to other documents are given that some of the best practice points are detailed in the CoP and that the document where they are taken from is referenced at the back of the CoP in Annexe A.

The term *appropriate adult* should be in the glossary at the end.

There is other guidance that could be in Annexe A and guidance around forced marriage is one in particular that should be considered. STRADA may be able to identify other guidance for working with people with problem drug and alcohol use.