

## **CONSULTATION QUESTIONS**

### **ADULT SUPPORT and PROTECTION CODE OF PRACTICE**

- The Mental Welfare Commission for Scotland has been asked to provide feedback on the recently revised Code of Practice. In our reading of the document we have found the revisions overall, positive and believe they will add particular clarity to the following areas :
- Definition of an adult at risk, including a new section on young people in transition and a section on adults who use drugs and alcohol (Chapter 3 )
- The ASP process overall with particular reference to referral, inquiry and investigation (Chapters 6-11 )
- Issues which arise if a person's capacity is considered to be impaired (whole document )

In addition the substantial revision and additions relating to the following areas are also welcomed:

- The development of good practice around service user and carer involvement and strategies to maintain this.
- Discussion relating to good practice within multi –disciplinary assessment and management of risk .(Chapter 11 )
- Additional clarification on the criteria relating to the appointment of council officers.
- Contribution of general practitioners following the publication of recent guidance.
- Revision of the role and function of Adult Protection Committees
- Introduction of a new section on large scale inquiries in contracted and group care settings.

#### **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?

Yes – the chapter sets out the context well and fully details the principles which the Act is predicated upon. It is hoped that the principles will continue to provide a template for best practice and guide staff in their interventions.

It is also useful to note that in relation to alcohol and drug use an inclusion of a co-existing illness, disability or frailty has been emphasised before considering adult support and protection intervention. This clarifies some of the dilemmas that have

been raised in practice discussions. Our report *Investigation into the care and treatment of Mr H* also gives guidance in this complex area of work.

Similar considerations may need to be given in relation to adults who self harm in the absence of a co-existing vulnerability. In our discussions with local authorities we are aware that self harm constitutes a high number of referrals from Police Scotland and is a challenge to resources, particularly mental health teams. Given that self-harm can constitute such wide and varying interpretations it may be helpful to define or guide practice a little further in this area.

#### Self –directed support (SDS)

We welcome the inclusion of this section within the document reflecting as it does the changing face of service provision for many users of services and their carers.

The information highlighting the potential rise of referrals as a result of undue pressure for individuals funded by the SDS process is important and further emphasises the importance of an integrated approach from multi –agency teams to ensure robust protection procedures.

#### Children in Transition

We again, welcome the inclusion of this section as it recognises that work needs to continue in this area between children and adult services. In previous years we have recognised that a gap has existed here, particularly with regard to local authority provision. It is positive that this is now changing. The inclusion here highlights the importance of staff continuing to be aware of the risks and vulnerability that young people may face when progressing to adult services.

#### **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 Commission welcomes the comments that this section details, those being that participation is of paramount importance and accords with other statutory provisions in associated legislation such as the Mental Health (Care and Treatment )(Scotland ) Act 2003.

The inclusion of the definition of advocacy services and its contributory role is important, as is the participation for the adult in the case conference process. Both, in our view, should feature in best practice considerations.

It may also be worth considering a comment on the potential role of relatives or primary carers assisting the adult in the areas of communication and participation where appropriate.

We welcome the addition of the section on Appropriate Adults and hope that this highlights further the importance of this role.

### **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?

We would suggest in section 9 page 43 that the word “safeguarder “ be removed and replaced with the word “proxy “ This would bring consistency and fall in line with documents produced by ourselves and the Office of the Public Guardian.

We would also suggest a reference to our investigation *Powers of Attorney and their safeguards- An investigation into the response by statutory services and professionals to concerns raised in respect of Mr and Mrs D*. This document was published in January 2012 and details alleged abuses involving powers of attorney. The report details safeguards and may be helpful when inquiring in cases of financial abuse.

In addition, given our recommendations from the above report, we welcome that the Law Society has published two new pieces of guidance in connection with this area. These are *Vulnerable Clients Guidance* and *Continuing and Welfare Powers of Attorney Guidance* and would suggest that reference to these documents may be helpfully included.

With regard to large -scale inquiries (LSI), we again welcome this inclusion to the document given the incidence of ASP issues in care and residential settings. References to involving the Care Inspectorate, Health Improvement Scotland and Police Scotland where necessary are important. We would also support the recommendation that local adult protection procedures should include comments and provision for LSI's. We would hope that the integration of health and social care assists with this process particularly in light of forthcoming legislation. Local training plans with an emphasis on multi -disciplinary working could also be considered in these instances.

### **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 is positive in its description of multi –agency and integrated working and we would commend the emphasis on shared accountability in decision making and tasks.

The need for dispute resolution procedures between agencies where there is disagreement on a course of action or inaction is not detailed in the Code. While this may be referred to in some local procedures we would suggest that reference to this should be made.

#### **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.

Again, we welcome the comments made throughout the Code in terms of service user and carer representation. In particular Chapter 16 offers guidance on how representation can be achieved at the Adult Protection Committee itself. We would endorse the views expressed on page 107 and encourage local mechanisms where representatives could be easily identified.

#### **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.

Given the differing role and nature of the work of the Mental Welfare Commission for Scotland we would not wish to comment fully with regard to this question. However, the additions relating to roles and interventions for practitioners are clear and provide a solid framework for best practice.

With reference to the Commission on page 106, paragraph 13 we would wish to clarify that we are not an inspection body but monitor practice through a visiting programme and carry out inquiries and investigations.

#### **Additional Comments**

Although not directly asked to comment on Chapter 7 we would highlight thatf further clarification may be helpful on the difference between when a warrant is executed and when it expires. The advice appears to say that it can't be used once executed but then goes on to state that it lasts for 72 hours before it expires. Is it that it can last for up to 72hrs but once executed cannot be used again even if within the 72hrs? Clarity here may be helpful to avoid any difficulties at practice level.