



# Adult Support and Protection (Scotland) Act 2007 2007 asp 10

## PART 1

### PROTECTION OF ADULTS AT RISK OF HARM

#### *Adult Protection Committees*

#### **42 Adult Protection Committees**

- (1) Each council must establish a committee (an “Adult Protection Committee”) with the following functions—
  - (a) to keep under review the procedures and practices of the public bodies and office-holders to which this section applies which relate to the safeguarding of adults at risk present in the council's area (including, in particular, any such procedures and practices which involve co-operation between the council and other public bodies or office-holders to which this section applies),
  - (b) to give information or advice, or make proposals, to any public body and office-holder to which this section applies on the exercise of functions which relate to the safeguarding of adults at risk present in the council's area,
  - (c) to make, or assist in or encourage the making of, arrangements for improving the skills and knowledge of officers or employees of the public bodies and office-holders to which this section applies who have responsibilities relating to the safeguarding of adults at risk present in the council's area,
  - (d) any other function relating to the safeguarding of adults at risk as the Scottish Ministers may by order specify.
- (2) In performing its functions, an Adult Protection Committee must have regard to the desirability of improving co-operation between each of the public bodies and office-holders to which this section applies for the purpose of assisting those bodies and office-holders to perform functions in order to safeguard adults at risk present in the council's area.
- (3) The public bodies and office-holders to which this section applies are—
  - (a) the council,

*Status: Point in time view as at 01/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Adult Support and Protection (Scotland) Act 2007, Cross Heading: Adult Protection Committees. (See end of Document for details)*

- [<sup>F1</sup>(b) SCSWIS,]
- [<sup>F2</sup>(ba) Healthcare Improvement Scotland,]
- (c) the relevant Health Board,
- (d) the chief constable of the police force maintained in the council's area,
- (e) any other public body or office-holder as the Scottish Ministers may by order specify.

#### Textual Amendments

- F1** S. 42(3)(b) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 21](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F2** S. 42(3)(ba) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 35\(b\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.

#### Commencement Information

- I1** S. 42 in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

## 43 Membership

- (1) It is for the council to appoint the convener and the other members of its Adult Protection Committee in accordance with this section.
- (2) Each public body and office-holder to which section 42 applies (other than the council and [<sup>F3</sup>SCSWIS]) must nominate a representative who appears to the body or office-holder to have skills and knowledge relevant to the functions of the Adult Protection Committee to be a Committee member.
- (3) [<sup>F4</sup>SCSWIS] may nominate a representative who appears to it to have skills and knowledge relevant to the functions of the Adult Protection Committee to be a Committee member.
- (4) The council must appoint the representatives nominated under subsections (2) and (3) as Committee members.
- (5) The council may also appoint as Committee members such other persons who appear to it to have skills and knowledge relevant to the functions of the Adult Protection Committee.
- (6) The Committee convener must not be a member or officer of the council.

#### Textual Amendments

- F3** Word in s. 43(2) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 22\(a\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F4** Word in s. 43(3) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 22\(b\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.

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#### Commencement Information

**I2** S. 43 in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

#### 44 Committee procedure

- (1) It is for an Adult Protection Committee to regulate its own procedures.
- (2) But those procedures must allow a representative of—
  - (a) the Mental Welfare Commission for Scotland,
  - (b) the Public Guardian,
  - (c) [<sup>F5</sup>SCSWIS] (where it has not nominated a representative to be a member of the Committee), and
  - (d) any other public body or office-holder as the Scottish Ministers may by order specify,to attend Committee meetings.

#### Textual Amendments

**F5** Word in s. 44(2)(c) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 23](#); [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

#### Commencement Information

**I3** S. 44 in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

#### 45 Duty to provide information to the Committee

- (1) Each of the public bodies and office-holders set out in subsection (2) must provide the Adult Protection Committee with any information which the Committee may reasonably require for the purposes of performing the Committee's functions.
- (2) Those public bodies and office-holders are—
  - (a) each of the public bodies and office-holders represented on the Adult Protection Committee by virtue of section 43(4),
  - (b) the Mental Welfare Commission for Scotland,
  - (c) the Public Guardian,
  - (d) [<sup>F6</sup>SCSWIS] (where it is not represented on the Committee), and
  - (e) any other public body or office-holder as the Scottish Ministers may by order specify.

#### Textual Amendments

**F6** Word in s. 45(2)(d) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 24](#); [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

#### Commencement Information

**I4** S. 45 in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

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## 46 Biennial Report

The convener of an Adult Protection Committee must, as soon as practical after such date as the council may direct biennially—

- (a) prepare a general report on the exercise of the Committee's functions during the 2 years ending on that date, and
- (b) after securing the Committee's approval of the report, send a copy of it to—
  - (i) each of the public bodies and office-holders represented on the Adult Protection Committee by virtue of section 43(4),
  - (ii) the Scottish Ministers,
  - (iii) the Mental Welfare Commission for Scotland,
  - (iv) the Public Guardian,
  - (v) [F7SCSWIS] (where it not represented on the Committee), and
  - (vi) any other public body or office-holder as the Scottish Ministers may by order specify.

### Textual Amendments

- F7** Word in s. 46(b)(v) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 25](#); [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

### Commencement Information

- I5** S. 46 in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

## 47 Guidance

Adult Protection Committees, and councils, must have regard to any guidance issued by the Scottish Ministers about their functions under sections 42 to 46.

### Commencement Information

- I6** [S. 47](#) in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

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**Changes to legislation:**

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