

ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1

Protection of Adults at Risk of Harm

Inquiries

Section 4 – Council’s duty to make inquiries

8. This section places a duty on councils to make inquiries about an adult’s well-being, property or financial affairs in certain circumstances. These circumstances are where the person falls within the definition of an adult at risk, and the council knows or believes it may have to intervene in order to protect the adult’s well-being, property or financial affairs.

Section 5 – Co-operation

9. This section addresses the requirement for public bodies to co-operate with the council and each other, where harm is known or suspected.
10. Subsection (1) lists the public bodies as the Mental Welfare Commission for Scotland, the Scottish Commission for the Regulation of Care (the Care Commission), the Public Guardian, all councils, chief constables of police forces and the relevant Health Board. It also gives Scottish Ministers power to prescribe other public bodies or office-holders in regulations.
11. Subsection (2) requires these public bodies to co-operate both with each other and with the council making inquiries where this is likely to assist the council to make inquiries in accordance with the duty described in section 4 above. The duty to co-operate is subject to any other functions the bodies may have.
12. If one of the public bodies listed above knows or believes an adult is at risk from harm and believes action is required to protect that person from harm, then subsection (3) requires them to report the facts and circumstances to the council for the area in which it considers the person to be.

Section 6 – Duty to consider importance of providing advocacy and other services

13. This section applies where, after making inquiries under section 4, a council considers that it needs to intervene in order to protect an adult at risk from harm. It requires the council to have regard to the importance of the provision of appropriate services (including, in particular, independent advocacy services) to the adult concerned.