East Lothian and Midlothian Public Protection Committee

Large Scale Investigation Protocol

Signed off at EMPPC meeting on 13/11/15 (v1)
1) Definition of Large Scale Investigation

A Large Scale Investigation is a multi-agency response to circumstances where there may be one or more adults at risk of harm within a care setting (this may be either residential care, day care, home based care or a healthcare setting). A Large Scale Investigation may be necessary where a number of adults may be targeted within the community.

2) Purpose of Protocol

To:

- Provide a standardised approach to be implemented by all professions consistent with current evidence of best practice;
- Help to decide if a Large Scale Investigation is necessary;
- Offer a framework for an alternative process to holding large numbers of individual Adult Support and Protection Inquiries and ensure that there is adequate overview / co-ordination where a number of agencies have key roles to play;
- Facilitate a shared understanding of the purpose of the protocol among all staff working in East Lothian Council, Midlothian Council, NHS Lothian, ‘J’ Division Police Scotland and the Care Inspectorate;
- Clarify responsibilities for following the protocol amongst partner agencies for overseeing Large Scale Investigations in East Lothian and Midlothian;
- Ensure that ethical issues related to the protocol are recognised and handled appropriately.

3) Criteria

A Large Scale Investigation should be considered when there is/are:

- A report of harm to an individual which may affect a number of other individuals also in receipt of care;
- Concerns raised about systematic failure impacting on the quality of care delivered which may be placing individuals at risk of harm;
- Multiple victims not in one setting: for example a number of adults at risk in the community are potentially being systematically targeted by criminals, such as bogus workmen, hate crime and sexual exploitation. Although the police will have the lead responsibility to investigate, this approach would bring together key agencies to assist in that investigation and take a consistent approach to support and protect victims from harm;
- This may also benefit cases where one or more reports are received from service users against other service users. In such circumstances, it may be appropriate to conduct individual Adult Support and Protection Case Conferences; however experience indicates that taking a proactive approach which can address supervisory arrangements and / or the management of aggressive or sexualised behaviour is potentially more effective.
4) Legislation

- Adult Support and Protection (Scotland) Act 2007 and associated code of practice;
- Adults with Incapacity (Scotland) Act 2000;
- The Mental Health (Care and Treatment) (Scotland) Act 2003;
- Public Services Reform (Scotland) Act 2010;
- The Human Rights Act 1998;
- The Sexual Offences (Scotland) Act 2009;
- The Social Work (Scotland) Act 1968, section 12, section 6;
- The National Assistance Act 1948, section 47.

5) Relevant Policy and Procedures

- EMPPC – Adult Support and Protection Policy and Procedures –
- Edinburgh, Lothian and Border Inter-agency Adult Support and Protection Guidelines 2013 –
- Council’s contract terms and conditions;
- Agency Disciplinary Procedures;
- The Care Inspectorate Adult Support and Protection Policy and Procedure –

6) Responsible Council Officers

East Lothian Council:
- Director of Services for People;
- Chief Social Work Officer;
- Head of Adult Wellbeing;
- Senior Manager, Operation;
- Senior Manager, Resources;
- Lead Officer Adult Support & Protection;
- Area Manager;
- Assistant Area Manager;
- Council Officers as defined by the Adult Support and Protection (Scotland) Act 2007.

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Midlothian Council:
- Director of Communities and Wellbeing;
- Chief Social Work Officer;
- Head of Service, Adults and Community Care;
- Fieldwork Group Manager;
- Resources Manager;
- Lead Officer Adult Support & Protection;
- Service Manager, Community Care;
- Team Leaders, Community Care.

7) Process

1.0 Introduction

Under the Adult Support and Protection (Scotland) Act 2007 (the Act) Council’s have a duty to make inquiries where it is known or believed that an adult may be an adult at risk of harm and that protective action may be required. The Act gives the Council the lead role in Adult Support and Protection investigations and makes no distinction between NHS premises and other settings.

This protocol has been agreed by East Lothian and Midlothian Public Protection Committee, East Lothian Council, Midlothian Council, NHS Lothian, ‘J’ Division Police Scotland and the Care Inspectorate. East Lothian Council and Midlothian Council will be the key agencies involved in any investigation process. It is designed to minimise risk to both residents and staff in any care setting. Managers of service providers are expected to have their own disciplinary procedures for staff within their organisations.

Concerns about an adult at risk being harmed in a care setting can be raised from many settings including:

- GP’s / District Nurses visiting;
- Family / friends making a complaint about standards of care;
- Whistle blowing within an organisation;
- Procurator fiscal investigating a death;
- Client’s admission to hospital;
- Concerns highlighted via quality assurance / contract monitoring;
- Concerns raised by the regulatory process.

When a report is received about an adult at risk being harmed within a care setting, or a potential systematic failure in the delivery of care services to adults at risk, there is a duty to inquire and investigate the risk of harm. By the very nature of the type of service and the provision of care, all service users are likely to meet the criteria of an adult at risk of harm (section 3, Adult Support and Protection [Scotland] Act 2007). The investigation should consider whether there is potential that other adults are also experiencing harm or are at risk of harm, and must include where relevant, an inter-agency referral discussion (IRD) with police, health and where necessary the Care
Inspectorate. If this is suspected to be the case, following discussion with the relevant manager, a multi agency strategy meeting should be recommended and in these circumstances, this protocol should be followed.

2.0 **Initial Investigations**

2.1 If the identified risks relate to the actions of a staff member (or staff members) within an organisation, then that organisation will be responsible for invoking its own disciplinary proceedings and ensuring that any immediate risks are removed or minimised.

2.2 Where there are concerns of wilful neglect and concerns that other adults may be at risk, a report **must** be made to the Police. (IRD) If there is a criminal investigation then decisions regarding primary and parallel processes and vice versa criminal investigation / disciplinary investigation will be considered, however it remains the Council’s duty to co-ordinate the Adult Protection process.

2.3 If there is a criminal investigation, this will take priority over any disciplinary proceedings and the organisation should be advised accordingly. Where the organisation concerned contracts with the Council to provide a service, then the Contracts Officer / Strategy Team should be advised of any indications that the provider may be in breach of contract.

2.4 Contact should be made immediately with the Detective Inspector, Public Protection Unit (‘J’ Division, Police Scotland) and the Chief Nurse Integrated Joint Board (IJB) East Lothian Council and NHS Lothian, Integrated Joint Board (IJB) Midlothian and NHS Lothian. This will be part of the IRD process and an initial action plan will be agreed which will consider:

- Whether any immediate protective action is required should individuals be at risk of imminent harm;
- An initial impact assessment (see appendix 8);
- Whether a multi-agency strategy meeting should be convened to assess whether a Large Scale Investigation should be initiated;
- The urgency of this and who will take responsibility for arranging;
- A media and communication strategy (see appendix 9).

2.5 If the allegations relate to a registered service then the Care Inspectorate should be alerted.

At this stage the Lead Officer for Adult Support and Protection should be alerted.
The Lead Officer and East Lothian and Midlothian Public Protection Office (EMPPO) business support can provide support to the process.

All decisions taken should be recorded.

2.6 Where possible it will be important to involve the relevant senior manager of the service under investigation throughout the process. If this does not seem appropriate (e.g. potential compromise to the investigation, advice should be sought from the police). The Care Inspectorate may also have a role in keeping the manager appraised in terms of possible action under the Public Services Reform (Scotland) Act 2010.

2.7 If a large number of adults could be at risk as a result of an emergency situation in a registered care home (such as failure of business or a situation requiring evacuation) then emergency planning arrangements should be agreed within the Council and NHS Lothian contingency plan. The provider also has a responsibility to have a continuity plan which would be implemented in such circumstance. COSLA’s Good Practice Guidance on the Closure of a Care Home should be referred to where short notice home closure is being considered.

2.8 There is a duty under the Act to consider the importance of advocacy and other services. Service users, or their primary carer / nearest relative, should routinely be given information about an appropriate advocacy service in all cases.

2.9 Where any media interest is likely, the lead senior manager and the appropriate communication officers from the relevant agencies should agree a joint media strategy. Chief Social Work Officers / Heads of Service will need to be appraised and may decide to direct / manage this process. Local Chief Officers Groups and elected members may also require to be briefed. The Lead Officer for Adult Protection should advise the Chair of the Public Protection Committee when any Large Scale Investigation is initiated (see appendix 5).

3.0 **Inter-agency Referral Discussion**

3.1 An Inter-agency Referral Discussion is a vital stage in the process of INFORMATION SHARING, assessment of risk and decision making about an adult who is KNOWN or BELIEVED to be an Adult at Risk of Harm:

- An IRD should involve Police, Health and Social Work and any agency can initiate an IRD;
- An IRD should also consider what kind of inquiry / investigation should be undertaken (Police / Care Inspectorate Inspection and / or Social Work Inquiry / Investigation);
This can include visits, interviews and medical examinations of records under the Adult Support and Protection Act;

Consider whether urgent protection orders under the Adult Support and Protection Act are necessary.

3.2 The purpose of an IRD is to:

- Identify and share relevant information regarding the subject(s) of the concerns and any relevant other people;
- Share all available information in order that it can be determined whether a criminal investigation may be required;
- Assess whether any immediate protective action is required should the adult(s) be at risk of imminent harm;
- Establish whether an investigation by the Council Social Work services is required;
- Agree an initial support and protection plan and establish which agencies are to be involved, also identify the lead agency;
- Consider whether an intervention under the Adult Support and Protection (Scotland) Act 2007 may be required (e.g. Protection Order);
- Consider whether there are any other adults who may be at risk of harm.

The IRD must always consider the need for a Multi-agency Strategy meeting and / or a Large Scale Investigation Case Conference and the decision should be recorded as an outcome. The decision not to proceed to Multi-agency Strategy meeting and / or Large Scale Investigation should also be recorded.

3.3 Chronology

The purpose of the chronology is to provide an easily accessible summary of information that enables further dialogue and exploration of the sequence of events that have occurred leading to the Multi Agency Strategy meeting. Consideration should be given to the use of an integrated chronology where two or more agencies have been involved with the service (e.g. Care Inspectorate and Social Work). The information should be clear, concise and sufficiently detailed to enable analysis of sequence of events, and to support the discussion of the multi-agency strategy meetings / Large Scale Investigation. The chronology should be updated until the Large Scale Investigation is concluded.
4.0 **Multi-agency Strategy meeting**

4.1 A Multi-agency Strategy meeting should be convened as soon as practicable, no later than 14 working days. The urgency of this, and who will take responsibility for arranging and minuting this will be decided during the initial intimation to agencies at IRD stage. This meeting can be a continuation of the Inter-agency Referral Discussion (IRD) process and will decide whether to continue with the investigation process.

The meeting should be chaired by a senior manager of the relevant local authority and needs to take account of contract monitoring, quality assurance and commissioning as well as adult support and protection issues. The chair of the meeting will identify the key agencies who require to attend the meeting. The people attending should be of a sufficiently senior level to contribute to decision making and resource allocation if necessary.

The Strategy Group will agree who will be appointed as Lead Council Officer. This officer should be an authorised Council Officer under the Act. The extent to which investigations / assessments should be conducted prior to holding a Multi-agency Strategy meeting will be dictated by circumstances and agreed at the inquiry / IRD stage.

4.2 The following should routinely be considered for invitation:

- Head of Service;
- Service Manager;
- Manager / Strategy and Policy / Resources Manager;
- Lead Officer, Adult Support and Protection;
- Inspector Manager / Team Leader;
- Council Communications Manager;
- Clinical Director;
- Chief Nurse, East Lothian / Midlothian;
- Detective Chief Inspector, Public Protection Unit;
- Team Manager, Care Inspectorate;
- Care Home Nurse Advisor;
- Representative(s) from any other local authorities who are funding service users within the service concerned;
A relevant manager of the service concerned (this must first be checked with police in terms of potential compromise to any investigation).

The East Lothian and Midlothian Public Protection Office can provide support with the setting up of these meetings.

If senior managers are invited they may bring / delegate attendance to relevant managers involved in the investigation.

Attendees of this meeting will be referred to as the Strategy Group. As a minimum local authority, police and health should be represented and the Care Inspectorate where appropriate.

The role of GP’s is seen as crucial to the process. GP attendance may be easier to facilitate where a particular practice has a contractual agreement to provide GP cover, as is the case for most care homes. Consideration should be given to holding the Strategy meeting at a surgery if that would help facilitate GP and District Nurse attendance.

4.3 If individual Adult Support and Protection Case Conferences are convened, then local Adult Support and Protection Procedures and ELBEG (Edinburgh, Lothian & Borders Executive Group) guidance will be followed.

4.4 The Strategy Group will decide who will inform other Local Authorities who are funding residents within the care home (or supported living accommodation). Under the Act the host authority has responsibility for any Adult Support and Protection Investigation in its area, however the responsible manager from each funding authority must be notified of the multi agency strategy meeting and information appropriate to the situation should be sent to them. The responsible manager of each funding authority shall notify their Chief Social Work Officer.

4.5 If the Strategy Group decides that all residents need to be reviewed, the level and type of review should be clarified and the professionals who need to be involved. Where a number of residents are funded by another authority, it is customary for that Council to undertake its own reviews. Once assessments / reviews have been undertaken by the appropriate professionals and any immediate risks have been addressed, then outstanding concerns should be discussed with the Lead Council Officer / Lead Officer Adult Support & Protection and reported back to the next multi-agency meeting.

4.6 Where various agencies are obliged to undertake other investigations, these should be clearly identified at the outset. For example, the NHS, internal Human Resources departments, Scottish Fire and Rescue Service, the Office of the Public Guardian (OPG), the Care Inspectorate, Health Improvement Scotland (HIS), the Mental Welfare Commission (MWC), Health and Safety Executive and Council Training
Standards / Auditors departments.

Where the Strategy Group decide that a Large Scale Investigation is not required, they must record the reason(s) for this decision and outline any further contingency or improvement action the group decide is required. A clear plan should be formulated which identifies who is responsible for implementing the actions within an agreed timescale and also who is responsible for monitoring the action plan.

5.0 Large Scale Investigation

5.1 The Multi Agency Strategy Group will:

- Share available information from all key agencies including police, health, council and the Care Inspectorate;
- Identify and evaluate risks;
- Agree whether / how to progress the investigation;
- Decide what further information is required and how that will be sourced;
- Agree a risk management plan identifying key tasks to be undertaken, the person’s responsible and agreed timescales. This will include any immediate protective measure for individuals (where not already addressed);
- For a Care Home – decide whether there will be a moratorium on admission;
- Decide on the communications / media strategy including the provider / service users / carers / wider public / other placing local authorities (see appendix 8);
- Consider the need for any individual Adult Protection Case Conference;
- Decide on the provision of advocacy if appropriate;
- Determine whether it is necessary to progress to a multi-agency Large Scale Investigation as per this protocol;
- Agree whether a review meeting is required and set a date if necessary.

5.2 Obtaining consent from an adult(s), for sharing information and / or passing on concerns (to the police for example) is a key issue. Where an adult does not give consent consideration will need to be given to:

- The possibility that they may be experiencing undue pressure;
➢ The risks to which other adults may be exposed by not sharing information;

➢ The adult’s capacity at the time to make informed decisions.

5.3 Ensuring consent for medical examination is the responsibility of the examining medical officer as per standard/procedural practice.

5.4 Where there are ongoing concerns about an individual adult or adults, the presence of a concurrent Police, Care Inspectorate or other investigation should not delay the agreement and implementation of a protection plan for the adult at risk.

It may be that, during the course of an investigation, further information emerges about a separate Adult Support and Protection concern. In these circumstances, there will be a need for an additional investigation of the individual concerned, a further IRD (where relevant) and an interim support and protection plan which is proportionate to the assessed risk in addition to the overarching large scale investigation and action plan.

Once assessments / reviews have been undertaken by the appropriate professionals and any immediate risks have been addressed, then outstanding concerns should be discussed with the Lead Council Officer and relevant Service Manager and reported back to a Large Scale Investigation meeting (or Initial Strategy meeting if assessments have been required urgently).

5.5 If it is decided that residents require an allocated worker as a matter of urgency consideration will be given to the most appropriate discipline. This may be a qualified Social Worker, Occupational Therapist, staff member or a nurse. A Council Officer should continue to co-ordinate any protection plan until this is no longer required. It may, in some circumstances, be necessary to involve a Mental Health Officer.

5.6 Specialist advice should be sought where necessary to assess the needs and delivery of practice to an individual. This may be in areas such as moving and handling, nutrition, tissue viability, challenging behaviour and medication management.

6.0 **Large Scale Investigation Review meeting**

6.1 A review meeting should be convened in order to review progress or conclude the investigation.

The timescale of the review must be proportionate to the risk of harm to all individuals.

The review meeting will:
➢ Consider reports from investigating social workers, Care Home Nursing Advisor, the police, the Care Inspectorate and any other relevant information;

➢ Ensure that appropriate Risk Assessments have been completed and Risk Management Plans are in place;

➢ Agree any outstanding actions and date of next review (where required).

➢ Ensure that timescales are set for following up any outstanding actions.

Where the review meeting has decided to conclude the Large Scale Investigation, any protection plans implemented for individual adults at risk should be continued and reviewed in line with standard local Adult Support and Protection Procedures.

Large Scale Investigations may have wider implications for local and national policy and practice. Where these are identified by the review group but have not been dealt with through other processes (e.g. local management reviews, multi-agency Significant Case Reviews etc), the review group should make recommendations, by way of an action plan, to the Public Protection Committee.

7.0 Impact Assessment (see appendix 8)

7.1 The Strategy Group / Large Scale Investigation should consider the impact such an investigation will have. This will include consideration of and contingencies for:

➢ How the service will be managed in the interim;

➢ Impact on service users, families and staff as a result of press interest;

➢ Processes undertaken in the review of service users / patients;

➢ How information should be disseminated to provide reassurance.

8.0 Media Strategy (see appendix 9)

8.1 Where any media interest is likely, the Chair of the Strategy Group and the appropriate communication officers from the relevant agencies should agree a joint media strategy. Chief Social Work Officers / Heads of Service will need to be appraised and may decide to direct / manage this process. The Critical Services Oversight Group (CSOG) may also need to be appraised.

8.2 The Adult Support and Protection Lead Officer should inform the Chair
of the Public Protection Committee of any Large Scale Investigations, so this can be reported to CSOG.

9.0 Records

9.1 All decisions taken by the Strategy Group should be minuted and recorded as such and stored within the shared drive. Where available minutes should be stored securely in the document upload section on Framework. All agencies are responsible for the secure storage of the minute within their organisations policy & procedures.

Chairperson/ Administrative Assistant

9.2 Minutes of the Multi Agency Strategy meetings and subsequent Large Scale Investigation minutes will form the basis of the investigation record together with any reports submitted. Where investigations relate to an individual, case notes will be recorded on Framework.

Lead Officer Adult Support and Protection

9.3 The Adult Support and Protection Lead Officer admin support may be able to support the Lead Council Officer by providing pro forma letters and a tracking sheet for the Action Plan.

Chairperson and all attendees

9.4 The decision to end an investigation should be taken at the Large Scale Investigation and minutes should be circulated to this effect to all invitees.

10.0 Monitoring

10.1 The Chairperson must keep the Adult Support and Protection Lead Officer informed. The information will be included in the report provided to the EMPPO and CSOG.

EMPPO

10.2 EMPPO Office will maintain a central record for Large Scale Investigations under the name of each service.

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<tr>
<th>Author’s name</th>
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<tr>
<td>Designation</td>
<td>Adult Support and Protection Lead Officer</td>
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<td>Date</td>
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Appendix 1 – Definitions

**Adults at risk**

Under the Adult Support and Protection (Scotland) Act 2007 an “adult at risk” means a person aged sixteen years or over who:

a) Is unable to safeguard their own well being, property, rights or other interests;
b) Is at risk of harm, and;
c) Because they are affected by disability, mental disorder, illness or physical or mental infirmity are more vulnerable to being harmed than adults who are not so affected.

All of the above criteria must apply to class an individual as an ‘adult at risk’.

The presence of a particular condition does not automatically mean an adult is an “adult at risk”. Someone could have a disability but be able to safeguard their wellbeing, property, rights or other interests; all three elements of this definition must be met. It is the entirety of an adult’s particular circumstances which can combine to make them more vulnerable to harm than others.

**Who is “at risk of harm”?**

An adult is at risk of harm if another person’s conduct is causing or is likely to cause the adult to be harmed.

Or

The adult is engaging or is likely to engage in conduct which causes or is likely to cause self-harm.

**Harm**

In the Adult Support and Protection (Scotland) Act 2007, harm includes all harmful conduct and, in particular, includes:

a) Conduct which causes physical harm;
b) Conduct which causes psychological harm (e.g. by causing fear, alarm or distress);
c) Unlawful conduct which appropriates or adversely affects property, rights or interests (for example: theft, fraud, embezzlement or extortion);
d) Conduct which causes “self-harm”.
Appendix 2 - Scope

All adults at risk of harm, as defined by the Adult Support and Protection (Scotland) Act 2007, in regulated care settings within East Lothian and Midlothian.

N.B: Potential scenarios can include the following:

- **When an adult protection referral is made that involves a number of adults.** For example: more than one adult at risk has been potentially maltreated or neglected and as a result experienced significant harm (e.g. one domiciliary care worker intimidates and threatens more than one adult with learning disabilities in a supported living environment resulting in them being frightened and scared);

- **Where a number of harmers are suspected.** For example: two or more people work together to maltreat or neglect adult/s at risk (e.g. carers / PA’s work together to financially abuse adults living in their own home);

- **Where institutional harm is suspected.** For example: potential or actual harm due to poor or inadequate care or support or systematic poor practice that affects the whole care setting (e.g. residents must go to bed before night staff come on duty, cannot get food or drink during the night, call bells are taken off people and residents are left all night in soiled beds or pads resulting in a loss of dignity and experiencing degrading practices);

- **Where there has been three or more adult protection investigations within a 12 month period, related to the same service, where the collective outcome indicates that serious harm has been caused.** For example: financial harm investigated in January, medications errors resulting in harm investigated in April and missed calls resulting in serious harm referred in September – all the same agency but different service users. All significant areas of concern signifying the agency is not operating a safe service with continuous improvement;

- **Where a whistleblower makes allegations about the management or regime or a service.** For example: a whistleblower alleges the manager of a service instructs staff to water down the milk, use out of date food, portions of food are insufficient etc. – and intimidates or threaten them with the sack if they tell anyone else; staff often bring in extra food for residents who complain they are hungry;

- **Where the situation is very complex and where special planning and co-ordination of the investigation is required.** For example: the investigation will require input from a number of agencies and people such as medicines management, tissue viability, health and safety, dietician, Care Inspectorate, Police. Staff who have neglected people resulting in medication errors, pressure sores and unsafe equipment will of necessity require assessment from a variety of disciplines.

- **Where an investigation into one allegation leads people to strongly believe other people may also be victims of the same harm.** For example: an adult complains of being hungry because there is no food. A visit to the home identifies little food and staff shortages. Or it could be a complaint about inadequate heating or broken equipment that could result in harm (e.g. hoists or hand rails broken; degrading practice towards residents is established);
Where there are significant concerns about the quality of care provided and there are concerns about the services ability to improve. For example: high number of low level concerns and complaints are being raised from various people and agencies, there is no registered manager, high staff turnover and generally the environment is poor and service users look neglected and uncared for; previous involvement with the service indicates the home does not improve quickly enough or is able to sustain improvements.
Appendix 3 – Agency Responsibilities

**Local Authority**

Has a duty under the Adult Support and Protection (Scotland) Act 2007 to make inquiries about a person’s wellbeing, property or financial affairs if it knows or believes:

a) That the person is an adult at risk;
b) That it might need to intervene in order to protect them.

**NHS Lothian**

Has overall responsibility for the healthcare of service users / patients. Under the Act they have a duty to co-operate with any inquiries about adults at risk of harm. Where required they will provide a nominated health professional to undertake any health assessments required.

**Police Scotland**

Has responsibility to detect and investigate crime and subsequently report the facts and circumstances to the procurator fiscal. They have a duty to co-operate with any inquiries about adults at risk of harm.

**Care Inspectorate**

Has a regulatory role in considering the safety of all service users in any registered care service and can take enforcement action under the Public Services Reform (Scotland) Act 2010. They have a duty to co-operate with any inquiries about adults at risk of harm.

Whilst responsibility for carrying out initial inquiries rests with the local authority and the police (where a crime may have been committed) other agencies may be asked to assist. The Adult Support and Protection (Scotland) Act 2007 allows for other persons to accompany a Council Officer carrying out visits under the requirements of the Act. The policy position of the Care Inspectorate is that this would only happen where it is considered there is a strong possibility that action will required under the Public Services Reform (Scotland) Act and that evidence gained will enable that to take place.

The Care Inspectorate may investigate complaints or inspect a service in parallel to other Adult Support and Protection investigations being carried out.

Edinburgh, Lothian and Borders Executive Group (ELBEG): Ensuring Rights and Preventing Harm

## Appendix 4 – Glossary of Terms

### Appropriate adult
Appropriate Adult Schemes are provided by the local authority to the police, to be utilised when the police are dealing with adults (those who have attained the age of 16 years) who suffer, or are suspected of suffering from a “mental disorder”.

The services of an Appropriate Adult are utilised to facilitate and ease communication with all categories of persons involved in the criminal justice system (i.e. victims, witnesses, suspects or accused persons).

### Capacity
The ability to make an informed choice and to act on the decision.

### Care Inspectorate
The Care Inspectorate is the independent scrutiny and improvement body for care and children’s services. They play a significant part in improving services for adults and children across Scotland by regulating and inspecting care services and carrying out social work and child protection inspections. Care Services are required to register with the Care Inspectorate and will be subject to regular inspection. The Care Inspectorate takes an active role in encouraging improvement in the quality of services and making information available to the public about the quality of these services. The Care Inspectorate also has a responsibility to investigate complaints it receives concerning any care service. The Care Inspectorate can take enforcement action under the Public Services Reform (Scotland) Act 2010.

### Council Officer
The Adult Support and Protection (Scotland) Act 2007 defines a “Council Officer” as an individual appointed by the Council under Section 64 of the Local Government (Scotland) Act 1973.

A person who is authorised to fulfil the functions under Sections 7, 8, 9, 10, 11, 14, 16 and 18 of the Adult Support and Protection (Scotland) Act 2007.

The person will need to be employed by the relevant Council and must be:

- Registered in the part of the register maintained by the Scottish Social Services Council (SSSC) in respect of Social Service Workers;
- Registered as an occupational therapist in the register maintained under Article 5(1) of the Health Professionals Order 2001, or;
- A nurse and have at least 12 months post qualifying experience of identifying, assessing and managing adults at risk.

### Health Professional
A “Health Professional” for the purposes of the Act are (a) a doctor, (b) a nurse, (c) a midwife or (d) any other type of individual described (by reference to skills, qualifications, experience or other use) by an Order made by the Scottish Ministers. The definition of doctor, nurse and midwife is as specified under their respective professionals Acts (i.e. Medical Act 1983 and Nurses and Midwives Order 2001).
Health Records
These are any records, in any format, which relate to an individual’s physical or mental health which have been made by or on behalf of health professionals in connection with the care of the individual.

Independent Advocate
A member of an advocacy service which operates independently of other service providers. Advocacy is about safeguarding individuals who are in situations where they are at risk of harm and who are not being heard. This often involves speaking up for them and helping them to express their views and assist them to make their own decisions and contributions. Contact with the appropriate advocacy service can be made through the local authority or NHS Lothian.

Mental Health Officer
A local authority social worker who has undergone specific post qualifying accredited training in mental health legislation. This person then has certain delegated powers under such legislation to act in conjunction with medical practitioners in the compulsory treatment of individuals with mental disorders.

Mental Disorder
The Mental Health (Care and Treatment) (Scotland) Act 2003 defines “Mental Disorder” as: Any mental illness, personality disorder or learning disability, however caused or manifested. For the purposes of Appropriate Adult guidance it shall include people with acquired brain injury, autistic spectrum disorder and people suffering from dementia. It does not include those temporarily impaired through alcohol and drugs.

Sub judice
Information subject to legal proceedings, the sharing of which may compromise those proceedings.

A report to the Procurator Fiscal or Children’s Reporter by any agency for the consideration of legal proceedings would class the information concerned as sub judice.

Undue Pressure
A Sheriff cannot make a Protection Order under the Act if he / She knows that the affected adult at risk has refused to the granting of the Order UNLESS the Sheriff reasonably believes that the adult has been “unduly pressurised” to refuse consent and there are no steps which could reasonably be taken with the adult’s consent which would protect the adult from harm. Undue pressure is where it appears that harm is being, or is likely to be, inflicted by a person in whom the adult has confidence and trust and that the adult at risk would consent if they did not have confidence and trust in that person.

Undue pressure is also relevant where the adult at risk is afraid of or being threatened by another person. The likelihood of undue pressure being brought to bear should always be considered when the adult at risk refuses to give consent.

Vulnerable Witnesses
The Vulnerable Witnesses (Scotland) Act 2004 introduced a range of specific measures to provide improved support for child and adult vulnerable witnesses in the Justice System. The various sections of the
Act were introduced in a staged process between 2006 and 2008. These measures which can be applied where there is a significant risk that the quality of their evidence may be diminished by reason of fear or distress in connection with giving evidence at a trial are all detailed within the Scottish Government Pack relating to the Act. The Code of Practice for Adult Vulnerable Witnesses encourages the delivery of therapeutic support to adult witnesses prior to and during court proceedings and to establish consistent best practice support which can be implemented across Scotland.

**Whistle Blowing**

A means by which staff can safely raise their concerns within their organisation about matters of suspected or actual malpractice. This allows an individual to bypass the formal line management arrangements if necessary.
Appendix 5 – Contact Details

Lead Officer for Adult Support and Protection (East Lothian and Midlothian)
Room F28
Brunton Hall
Ladywell Way
Musselburgh
EH21 6AF
Tel: 0131 653 5158

Local Authority – East Lothian Council
Adult Wellbeing
East Lothian Council
Randall House
Macmerry
EH33 1RW
01875 824 309

Local Authority – Midlothian Council
Adults and Community Care
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA
0131 271 3318

Police Scotland ‘J’ Division
Detective Chief Inspector – Public Protection
‘J’ Division, Police Scotland
Divisional Headquarters
Newbattle Road
Dalkeith
EH22 3AX
0131 663 2855

NHS Lothian – East and Midlothian Community Health Partnership
David Small, Joint Director
John Muir House
Brewery Park
Haddington
EH41 3HA

Eibhlin McHugh, Joint Director
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA
Emergency Social Care Service (ESCS)
Out of hours, weekends and public holidays
Tel: 0800 731 6969

Care Inspectorate
Duty Team Manager
Stuart House
Eskmills
Musselburgh
EH21 7PB
Tel: 0131 653 4100

Chair of East and Midlothian Public Protection Committee
Anne Neilson
NHS Lothian
Old Royal Victoria Hospital
13 Craigleith Road
Edinburgh
EH4 2DN
Tel: 0131 537 5298
Appendix 6 – Protocol Flowchart

Concerns received about an adult and/or a number of Adults at Risk in a care setting

Discuss with Senior Manager / Council / NHS Lothian / Lead Officer, Adult Protection

Begin inter-agency referral discussion process with:
- Team Leader / Assistant Area Manager
- DS - Public Protection Unit Dalkeith
- Chief Nurse, East/ Midlothian CHP
- NB - alert Care Inspectorate if registered service

This initial IRD discussion should consider:
- whether multi agency strategy meeting is required;
- if so - agree responsibility for arranging / chairing / minuting;
- if not - initiate any individual ASP process required;
- any immediate measures required;
- initial impact assessment including:
  - processes for reviewing service users / patients;
  - effect on service users family and staff as a result of heightened activity / possible press interest;
  - initial media strategy;
  - how information should be disseminated.

The Multi-agency Strategy meeting should:
- Decide whether a Large Scale Investigation should be initiated;
- Consider/discuss any reviews/assessments/investigations already conducted at this time (from Social Work, Health & Police);
- Consider information provided by the Care Inspectorate;
- Consider / review media strategy;
- Identify key tasks to be undertaken; who will undertake these tasks; and agreed timescales for completion. This will include any immediate protective measures for individuals (where not already addressed);
- Consider the need for any individual ASP case conferences;
- Consider staffing / resource issues;
- Agree how the relevant senior manager of the care setting will be appraised and who is responsible for this;
- Decide whether Business Support Unit / Contracts Officer / HR Manager need to be appraised of decisions;
- Agree whether review meeting is necessary and set date.

Lead Council Officer should ensure the following are advised in writing of final outcome:
- Relevant senior manager in Council / NHS Lothian;
- Individuals/Agencies who were invited to Multi-agency strategy meeting;
- Local Manager of Care Inspectorate (if appropriate);
- Lead Officer, Adult Protection who will report to Public Protection Committee.

If large scale investigation is not appropriate

Individual ASP investigation

Follow local Adult Support and Protection procedures

Advise line manager if further information suggests a large-scale investigation may be required

Concerns received about an adult and/or a number of Adults at Risk in a care setting

Signed off at EMPPC meeting on 13/11/15 (v1)
Appendix 7 – Protocol for Inter-authority Adult Support and Protection Investigations

1.0  Introduction

1.1  These arrangements recognise the complexity for adults who may be at risk of harm whose care arrangements are complicated by cross boundary considerations. These may arise, for instance, where funding / commissioning responsibility lies with one local authority and where concerns about an adult at risk of harm subsequently arise in another. This would apply where the individual lives or otherwise receives services in another council area.

2.0  Aims

2.1  This protocol aims to clarify the responsibilities and actions to be taken by local authorities with respect to people who live in one council area, but for whom some responsibility remains with the council area from which they originated.

2.2  This protocol should be read in conjunction with section 53 of the Adult Support and Protection (Scotland) Act 2007 which defines:

➢  Council as “a council constituted under section 2 of the Local Government (Scotland) Act 1994 (c.39); and references to a council in relation to any person known or believed to be an adult at risk are references to the council for the area which the person is for the time being in”;

➢  The Care Inspectorate is the independent scrutiny and improvement body and has a regulatory role in considering the safety of all service users in any registered care service under the Public Services Reform (Scotland) Act 2010.

3.0  Definitions

➢  Host Authority – The council where the adult at risk is currently located
➢  Placing Authority - The Council with funding responsibility

4.0  Principles

➢  The host authority will have overall responsibility for co-ordinating the adult support and protection arrangements;

➢  The placing authority will have a continuing duty of care to the adult at risk of harm;

➢  The placing authority should ensure that the provider, in contractual specifications, has arrangements in place for protecting adults who may be at risk of harm and for managing concerns, which in turn link with local policy and procedures set out by the host authority;

➢  The placing authority will provide any necessary support and information to the host authority in order for a prompt and thorough investigation to take place;

➢  The host authority will make provision in service level agreements, which refer to this protocol, outlining the responsibilities of the provider to notify the host authority of any adult protection concerns.
5.0  Responsibilities of host authorities

5.1  The host authority should always take the initial lead on investigation, following local procedures. This will include liaison with the police and co-ordinating immediate protective action, if appropriate.

5.2  The host authority will co-ordinate initial information gathering, background checks and ensure a prompt notification to the placing authority and all other relevant agencies.

5.3  It is the responsibility of the host authority to co-ordinate any investigation of institutional harm. If the alleged harm took place in a residential or nursing home, other people could potentially be at risk and enquiries should be carried out with this in mind.

5.4  The Care Inspectorate should be included in investigations involving regulated care providers and enquiries should make reference to their guidance regarding arrangements for the protection of adults who may be at risk of harm.

5.5  There will be instances where allegations relate to one individual only and in these cases it may be appropriate to negotiate with the placing authority their undertaking certain aspects of the investigation. However, the host authority should retain the overall co-ordinating role throughout the investigation.

6.0  Responsibilities of placing authorities

6.1  The placing authority will be responsible for providing support to the adult at risk(s) and planning their future care needs. If there are a number of residents funded by the placing authority it is usually negotiated for that authority to undertake any reviews.

6.2  The placing authority should nominate a link person for liaison purposes during the investigation. They will be invited to attend any Adult Protection strategy meeting and / or may be required to submit a written report.

7.0  Responsibilities of provider agencies

7.1  Provider agencies are responsible for ensuring all their staff can identify and respond appropriately to situations where harm is alleged.

7.2  Provider agencies should have in place suitable adult protection procedures to prevent and respond to harm which link with the local inter-agency policy and procedures set out by the host authority.

7.3  Providers should ensure that any allegation or complaint about harm is brought promptly to the attention of Social Work Services, the Police, and / or Care Inspectorate in accordance with local inter-agency policy and procedures.

7.4  Provider agencies will have responsibilities under the Regulation of Care (Scotland) Act 2001 to notify their local Care Inspectorate office of any allegations of abuse or any other significant incidents.

7.5  Provider agencies who have services registered in more than one local authority area will defer to the Care Inspectorate office relevant to the area in which the alleged harm took place.
8.0 Cross border placements

8.1 Where placing authorities have placed adults within English care home settings and incidents of harm are being reported through either the English adult safeguarding team or to the placing authority. Then discussion should happen between the placing authority and the English safeguarding team.

8.2 Immediate steps should be agreed and implemented to protect individuals involved.

8.3 The placing authority will organise an immediate review of the adult’s situation and inform senior management of the outcomes and recommendations from the review.

8.4 Regular updates should happen between the English safeguarding team, the placing authority and Care Inspectorate.
Appendix 8 – Impact Assessment

The circumstances leading to a Large Scale Investigation and the investigation itself will have an impact on a number of people and services. This template should be used to record the strategy group’s assessment of that impact, and any actions required. It should include any specific support required, for example to a referrer or to staff in the care home, any resource implications for the investigation, and any legal implications. A media strategy should also be completed.

<table>
<thead>
<tr>
<th>Impact on</th>
<th>Y/N</th>
<th>Detail action required</th>
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<th>Timescale</th>
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<td>Care Home staff</td>
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<td>Referrer / Whistleblower</td>
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Appendix 9 – Media Strategy

Any Large Scale Investigation may trigger media attention and preparation for this is useful. In completing this media strategy consideration should be given to agreeing an “if asked” statement with senior managers / Chief Social Work Officers and communications / media officers. Thought might also be required with regards to response (via communications / media officers) to social media issues.

N.B: Under no circumstances should any member of staff deal with enquiries from the media – all such enquiries should be referred to communication / media officers in statutory agencies.

<table>
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<tr>
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<td>Chief Nurse</td>
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<td>DCI, ‘J’ Division, Police</td>
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<td>Other Local Authorities</td>
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