

I. PROTECTION OF ADULTS AT RISK OF HARM – SCOTLAND

ADULT AT RISK

Scottish legislation¹ defines 'adults at risk' as adults over 16 years who:

1. are unable to safeguard their own well-being, property, rights or other interests;
2. are at risk of harm; and
3. 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.

Life circumstances as well as illness can contribute to placing an adult at risk of harm. In those situations the Church is committed to working together across its departments and with external organisations, to support and protect adults who are unable to safeguard themselves, their property and their rights. Full details on adult support and protection can be found on the Scottish government site:

<http://www.gov.scot/Topics/Health/Support-Social-Care/Adult-Support-Protection>

Where it is known or suspected that an 'adult at risk' is being harmed, it must be decided whether or not further action is needed to protect the adult's well-being, property or financial affairs. Harm could occur at the hands of anyone: a relative, spouse or partner, friend, professional, neighbour or stranger. It could happen anywhere – in the family home, in a care setting, at work or in public places.

Who is an adult at risk of harm?

An 'adult at risk' is someone aged 16 or over as mentioned above whose circumstances make them **unable to look after their own well-being and possessions** so are more vulnerable to being harmed than other adults.

The presence of a particular condition or disability does not automatically mean that an adult is an adult at risk. A person can have a disability but be perfectly able to look after their own well-being etc. Their circumstances as a whole should be considered and all three elements of the definition must be met in order for them to be classed as an adult at risk.

What is meant by 'risk of harm'?

The legislation makes clear that 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.

What is 'harm'?

The term harm covers all harmful behaviour, for example:

- physical harm;
- psychological harm causing fear, alarm or distress;
- behaviour which adversely affects property, rights or interests (for example, theft, fraud, embezzlement or extortion);
- self-harm;
- neglect.

What can be done to protect an adult at risk of harm?

Where there is a concern that someone is at risk of harm, this should be reported to the local authority social work department and/or the police.

¹Adult Support and Protection (Scotland) Act 2007 Section 3(1)

The local authority should take these referrals seriously and must make enquiries. It has a number of options available to it to help protect an adult at risk of harm. These might include:

- a visit to interview the adult, to explain what support services may be available to them or to offer them a medical examination if appropriate;
- requiring health, financial or other records to be produced;
- an application to court for a protection order.

Any intervention in an adult's affairs must provide benefit to them and should restrict their freedom as little as possible. The local authority must consider the wishes and views of the adult at risk and efforts must be made to help them communicate their views.

What can the local authority do to protect an adult who is at risk of harm?

The local authority can enter any place where it knows or suspects that an adult is at risk of harm in order to establish whether any further action is needed to protect the adult. They will work with other agencies to secure the well-being of that adult. This may include:

- ensuring access to suitable advice and support;
- providing practical care and support services for the adult at risk and/or their carer;
- an order or appointment of a proxy to help the person manage their affairs.

Where a criminal offence has been committed against the adult at risk, this should be reported immediately to the police. Any interview or medical examination can only be carried out with the agreement of the adult concerned.

Where necessary the local authority can apply to court for a protection order if specific consent is needed for permission to undertake further assessment on behalf of an individual; to remove them from a situation of potential serious harm; or to ban another person from contact.