

Consultation in relation to the revision to adult support & protection code of practice

An analysis of responses

About this report

1. This report provides an analysis of responses to the Scottish Government's '*Consultation in relation to proposed revisions to the Adult Support & Protection Code of Practice*' which closed on 4 November 2013.

Background to the consultation

2. The Adult Support and Protection (Scotland) Act 2007 (the Act) has been in operation since 2008. Section 48 of the Act requires Scottish Ministers to prepare a Code of Practice containing guidance about the performance of functions by councils, council officers and health professionals under the Act.

3. Since the Act came into force practices and procedures have developed as practitioners gain more experience in working with the legislation and accordingly we considered it necessary to revise the Code of Practice to reflect and build on these new practices.

4. A working group of professionals drawn from the public, voluntary and private sectors in Scotland, in conjunction with the Scottish Government Mental Health and Protection of Rights Division, were tasked with revising the code of practice.

5. The revised Code of Practice is a larger and more comprehensive document than the original Code and the Consultation paper sought views on any of the changes made. 6 questions were formulated for that purpose, with an additional box to allow for any further comments.

Overview of responses

6. A total of 50 written responses¹ were received. Annex B contains a list of respondents. Table 1 below shows the distribution of responses. One respondent wished to remain anonymous and for the content of their response not to be included in the analysis. Two respondents wished to remain anonymous but the content of their response has been taken into account in preparing this analysis report. 94% of responses were submitted by organisations with 6% by individuals. Not all respondents addressed every questions and some respondents offered comments on matters outwith the scope of the consultation.

¹ Link to responses on SG website <http://www.scotland.gov.uk/Publications/2013/12/7606/downloads>

Table 1: Distribution of responses

Respondent Category	Total Received	% of Responses
Individuals	3	6%
Local Authority	21	42%
NHS	5	10%
Other professional organisations	7	14%
Professional representative organisations	5	10%
Service Users representative organisations	6	12%
Voluntary bodies	3	6%
Total	50	100%

7. The analysis of responses is largely qualitative. Due to the fact that not every respondent answered every question the percentages quoted in this report should be treated as indicative and illustrative only.

Summary

8. An analysis of the responses received can be found in Annex A. The majority of responses were positive and welcomed the changes made and new sections added to the Code of Practice. There is a noticeable variance in processes between practitioners which sparked discussions and a need for clarification on, for example, Health records examination, multi-agency meetings, references to the Health & Social Care Integration agenda, and a need for clear definitions for referrals, inquiries and investigations. The revised Code of Practice is perceived as a more useful tool for practitioners and more detailed with useful additions. In general terms, the themes are comparable amongst the majority of responses.

Next steps

9. The Scottish Government is considering the responses received. As part of this, the Scottish Government will also seek advice from the working group of professionals who prepared the draft for consultation. These will help inform the final revisions of the Adult Support & Protection Code of Practice. It is anticipated the revised code will be published before Easter.

QUESTION 1: Chapter 3

This chapter of the Code sets out the principles of the Adult Support & 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?

Summary of responses to Question 1

Most respondents agreed that Chapter 3 sets out the principles of the legislation and the definition of an adult at risk more clearly. There was a number of wide-ranging comments on a few matters, including:

- The definitions for 'unwilling' and 'unable' were described as very helpful by some respondents in determining the 3 point test but felt by some respondents that putting pressure on the referrer to determine this could result in referrals not being made.
- Training for local authorities to identify agencies (such as voluntary sector) which can provide support for adults at risk would be beneficial.
- Other definitions would be helpful, for example definition of physical and mental infirmity.
- Other sections similar to the addition of 'Problematic alcohol and drug use' were suggested, such as 'self-harm and attempted suicide' for example.
- Clear definitions of referrals, inquiries and investigations would be helpful and would support a national data collection.

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?

Summary of responses to Question 2

The majority of responses agreed that Chapter 5 covers the issues arising from ensuring as far as possible full participation by adults in decision making.

The unanimity of responses offered useful suggestions to make this chapter more practitioner-friendly which could be enhanced with (small sample of examples):

- Addition of case studies to help practitioners in using the process.
- Addition of other organisations which can support statutory bodies in the process.
- Addition of links to communication tools to assist practitioners.
- Uniformity of language, i.e. the 'adult at risk' term.

There is an overwhelming request for the term 'multi-agency meeting' to be clarified as its use in the Code of Practice is considered confusing.

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?

Summary of responses to Question 3

Although a majority of responses agreed the new guidance on large scale inquiries provides sufficient clarity and is a useful addition to the Code of Practice, a large number of responses were seeking clarity and the respondents made suggestions for improvement, for example:

- Establishing a clear and concise written remit at the outset of large-scale inquiries would be helpful.
- What evidence is required and who should lead this type of investigation.
- Guidance to provide direction on the threshold needed to initiate a large-scale inquiry.

Some responses suggested that the section 'Large Scale Inquiries' should be placed in a different chapter of the Code of Practice, and should be renamed 'Large Scale Investigations'.

Most responses also requested that definitions for inquiries and investigation be clearly stated, and Chapter 6 be amended to keep clarity between inquiries and investigations as the terms were crossed over.

It was also highlighted that more effective communication and information-sharing among inquiry teams is crucial, and more guidance on the practicalities of interagency collaboration should be considered.

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?

Summary of responses to Question 4

A majority of responses agreed this new addition to the Code of Practice is welcome. There was consensus amongst respondents as to suggestions for making further improvements, for example:

- Addition of guidance where there is specific adult and child protection crossover.
- Inclusion of good practice guidance from professional groups not covered in statute.
- Inclusion of protection plans – specific detailed protection plans like MAPPA and SMART.

The confusion between different types of meetings was highlighted again in this chapter. It was also suggested that information sharing and reference to section 5

'duty to co-operate' were items which could be beneficial if reiterated in this chapter and in the context of 'Multi-agency decision making'.

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.

Summary of responses to Question 5

There was an overwhelming unanimity of responses agreeing that the Code succeeds in developing and articulating good practice as regards service user and carer involvement. Most respondents noted that it can actually be seen throughout the Code of Practice.

Some responses suggested that there could be reference made to 'referral mechanisms with appropriate support services' for both service users and carers.

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.

Summary of responses to Question 6

A majority of responses agreed that the revised Code of Practice will enable them to carry out their professional responsibilities effectively. There was a significant number of responses that provided a range of useful recommendations.

The majority recommend the use of case studies or examples to introduce a notion of thresholds.

Responses reinforced the request for more links with other relevant legislations and support groups/organisations during inquiries, investigations and multi-agency meetings. Most responses also suggested that the Code of Practice would benefit with changing some of the language to meet the Health & Social Care Integration agenda.

Any further comments

The consultation paper offered consultees the opportunity to add further comments on other parts of the Code of Practice.

Summary of responses

Overall the responses highlighted that the Code of Practice would benefit from the addition of case studies and/or scenarios. There was a sense that the language should be more prescriptive where 'must' ought to replace 'should'.

Most responses suggested that an annex could include links to various legislations used in the context of helping adults, and to various tools available. It was suggested that the Code could reinforce the roles and responsibilities of the statutory bodies named in the Adult Support & Protection (Scotland) Act 2007 ('the Act'). There were also recommendations for Chapter 10 of the Code to be revisited to clarify the situation with 'Examination of records as part of an adult protection investigation'.

LIST OF RESPONDENTS

Local authority

The City of Edinburgh Council (b/o Edinburgh Adult Protection Committee)
Scottish Borders Council
East and Midlothian Adult Protection Committee
North Lanarkshire Adult Protection Committee
South Lanarkshire Adult Protection Committee
North Ayrshire Council and North Ayrshire Adult Protection Committee
West Lothian Adult Protection Committee
Forth Valley Adult Support & Protection Committee
Fife Adult Protection Committee
Shetland Adult Protection Committee
East Renfrewshire Adult Protection Committee
West Dunbartonshire Adult Protection Committee
Social Work Law Officers Group (Community Care) Renfrewshire Council Legal Services
Argyll and Bute Adult Protection Committee
Angus Adult Protection Committee
Perth & Kinross Council
Renfrewshire Council – Social Work Service
East Ayrshire Adult Protection Committee
Highland Adult Support & Protection Committee
Dundee City Adult Support & Protection Committee
Moray Council - Adult Protection Unit

Voluntary bodies

SACRO
Dundee Independent Advocacy Support (DIAS)
Scottish Independent Advocacy Alliance

NHS

NHS Greater Glasgow & Clyde
Sandyford NHS GG&C
Orkney Health and Care
Inverclyde CHCP
NHS Lanarkshire

Professional representative organisations

BMA Scotland
Royal College of Speech & Language Therapists
BA Social Work Students – University of Dundee
MSc Social Work Students – University of Dundee
General Medical Council

Other professional organisations

Scottish Council on Deafness
Scottish Fire and Rescue Service

Care Inspectorate
Police Scotland
Healthcare Improvement Scotland
ADSW Ltd
The Mental Welfare Commission for Scotland

Service users representative organisations

Victim Support Scotland
Marie Curie Cancer Care
People First (Scotland)
Real Life Options
SAMH (The Scottish Association for Mental Health)
Scottish Families Affected by Alcohol and Drugs

3 anonymous responses



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