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| Policy  | SDS Safeguarding Policy  |
| Briefing Document   | Vulnerable Adults Protection Procedure   |
| Purpose   | This procedure describes the actions to be taken by SDS employees in the event of a vulnerable adult protection concern. It applies when employees are working directly with vulnerable adults irrespective of directorate, department or team. The purpose is to help safeguard and prevent harm. The procedure helps SDS employees <b>recognise, respond, refer and record</b> a vulnerable adult protection concern |
| Audience  | All SDS staff who have direct contact with customers   |
| Communication Method  | Communications Team issuing briefings via weekly update from January 2019. Staff attending training will be issued with copies.  |
| Related Documents<br>(available on Procedures section area of Connect, under "Related Documents") | SDS Safeguarding Policy<br>Child Protection Procedure  |
| Process Owner   | Sandra Cheyne  |
| Author  | Greg Hiddleston  |
| Approver  | James Russell  |
| Business Support Sign Off   | Pamela Hagan   |
| Last Review Date  | January 2019   |
| Next Review Date  | January 2020   |

#### **Briefing Document Details**

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This **Briefing Document** outlines the background, business rules and approach being used to describe the actions to be taken by SDS employees in the event of a vulnerable adult protection concern. The purpose of this document is to develop a comprehensive understanding around the aforementioned process.

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## **Table of Revisions**

| <b>Version No.</b> | <b>Detail</b>  | <b>Reviewed by</b> | <b>Date</b>  |
|--------------------|--|--------------------|--------------|
| 1.0                | NSPCC recommendations reviewed and included as appropriate. Working Group recommendations reviewed and included as appropriate. OLT group consulted. | National CIAG      | January 2019 |
| 2.0                | New Ishare recording system details included   | National CIAG      | 11.7.19      |
| 3.0                | Additional guidance on deletion of local copies of form added on request of Director (recording form amended also)                                   | National CIAG      | 12.8.19      |
| 3.1                | Naming convention for storing completed form added   | Greg Hiddleston    | 14.10.19     |

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## 1. Overview

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The purpose of these procedures is to provide an outline of the action to be taken by SDS employees where there are concerns regarding the immediate safety of a vulnerable adult (neglect or harm has either occurred, or is threatened, or is suspected) and the action to be taken.

Protecting vulnerable adults was enshrined in law through the Adult Support and Protection (Scotland) Act 2007. The Act provides ways to offer support and protection to certain adults who may be at risk of harm or neglect.

## 2. Information Security

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Please be aware of information security. To minimise information security risks, please be conscious of the use of hard copy outputs with customer's names and details.

Where possible you should access customer records and reports via your SDS encrypted laptop.

Please refer to the [Information and Technology Usage Policy](#), the [Information Classification and Handling Policy](#) and the [Data Protection Policy](#).

This Briefing Document has been assessed and evaluated in line with our obligations under the General Data Protection Regulation and has been deemed to be compliant.

## 3. Definitions

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### **Who is a vulnerable adult?**

An "adult at risk" of harm is defined as a person aged 16 or over who may be unable to protect themselves from someone harming them, or from exploitation or neglect, because of a:

- disability;
- mental disorder;
- illness: or
- physical or mental infirmity

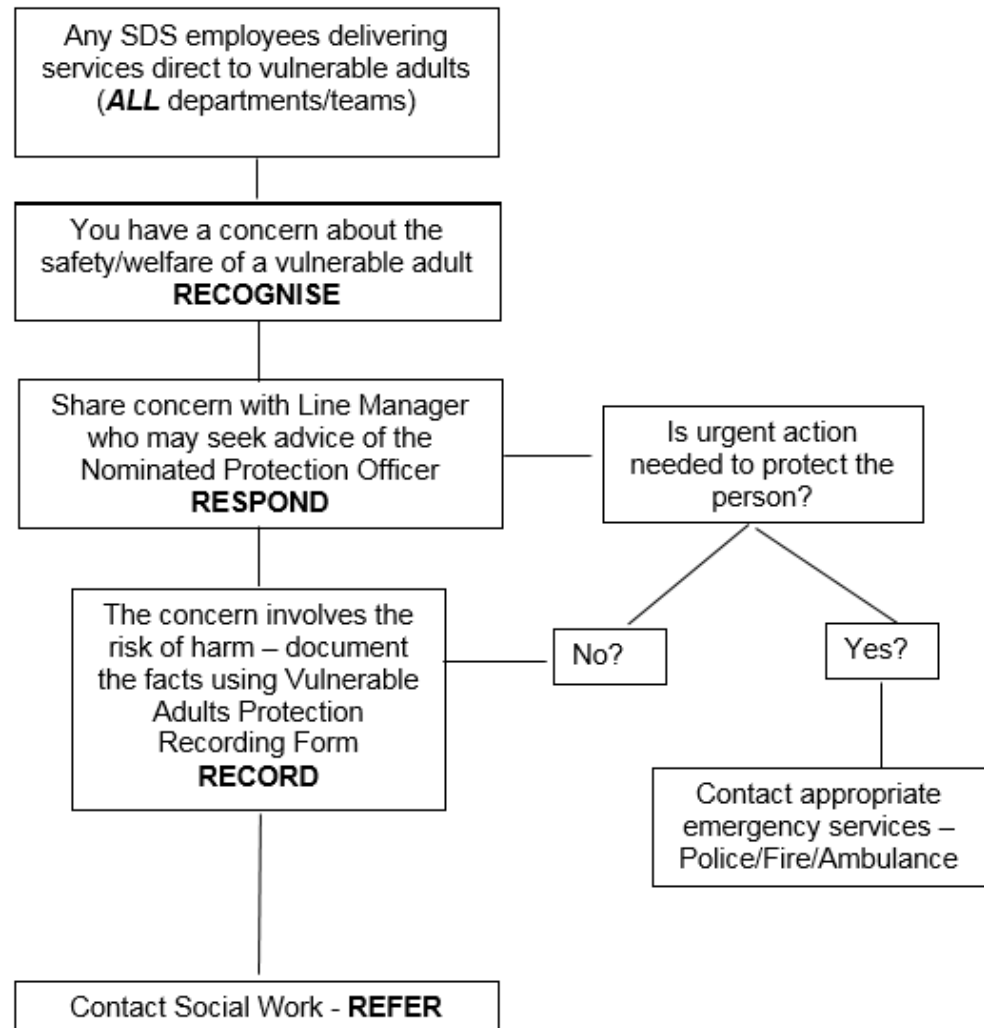
SDS employees: an employee is a person employed under a contract of employment with SDS, this can include permanent, fixed term, Modern Apprentice and other trainee contracts.

**Scope:** This procedure applies to all employees within SDS. Everyone involved in SDS business, including individuals who are seconded into SDS from another organisation (or employed through an agency) and voluntary placements (e.g. students and work experience) will be required to comply with this policy and associated procedures.

**Nominated Protection Officer (NPO):** The NPO is a nominated employee who is responsible for dealing with any concerns about the protection of children and vulnerable adults. Appendix C includes the detailed roles and responsibilities as well as contact information. Staff can also seek support from the NSPCC helpline – **0800 800 5000**

#### 4. Dealing with a Vulnerable Adult Protection concern across different SDS settings – Decision Flowchart

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## 5. How to **Recognise** a Vulnerable Adult Protection concern

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### What is harm?

Harm is defined as all harmful conduct. Some examples of this include:

**Physical:** hitting, slapping, pushing, shaking, locking them in a room, tying them to a chair, restricting their freedom.

**Psychological:** threats of harm, being left alone, humiliation, intimidation, causing distress, verbal abuse, bullying, blaming, constant criticism, controlling, depriving contact with others.

**Neglect:** failure to provide medical or physical care, access to a doctor or other services, or denying someone medication, food or heating, privacy or dignity, self neglect.

**Financial:** stealing, fraud, pressure to hand over or sign over property or money, misuse of property or welfare benefits, or stopping someone getting their money or possessions.

**Sexual:** any sexual activity that a person doesn't understand or want, photographing, sexual harassment, voyeurism. Information: withholding information or advice about rights or entitlements.

**Discrimination:** because of age, colour, disability, gender, race, religion, cultural background or sexual orientation.

### Where can harm happen?

Anywhere. It can happen in the family home, hospital ward, care home, day services, social clubs, day centres, at work and in public places.

### Possible signs of harm include:

- unexplained or unusual injuries;
- a delay in seeking treatment for injuries or illness;
- sudden increase in confusion;
- unexplained deterioration of health or appearance;
- people being anxious or afraid;
- misuse of medication, e.g. not giving medicines properly;
- unexplained changes of behaviour, e.g. becoming anxious and withdrawn, fear of another person;
- pressure by family or professionals(s) to have someone moved into or taken out of care
- hostile or unkind behaviour by a person;

- unexplained debt, not paying bills for services;
- not having their basic needs met, such as adequate food or heating;
- not being provided with adequate information about their rights or entitlements, or being misinformed;
- prejudicial actions or remarks to the adult at risk about age, gender, disability, race, colour, sexual or religious orientation;
- another person using the adult's possessions, bank account or property without his or her informed consent; and
- the adult at risk not receiving appropriate care, which would protect them from harm.

## **6. *Respond* to a Welfare/Wellbeing Child Protection concern**

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### **Grounds for concern:**

The focus of this procedure is on supporting vulnerable adult wellbeing by helping employees be better able to recognise harm how and how to respond then refer.

All employees who deal with vulnerable adults are required to be familiar with, and be able to apply, this procedure in situations where there is a clear wellbeing issue and to act without delay.

It is important to note that not all concerns about a vulnerable adult will require a response under vulnerable adult protection by social work. Equally where an SDS employee has an ongoing support role with a vulnerable adult, they may become concerned about their wellbeing over a period of time and not as a result of a one-off incident. It is crucial that if the SDS employee is concerned about a vulnerable adult's wellbeing that they seek advice firstly from their line manager as soon as possible and where appropriate from the NPO. Local authority Duty Social Work teams are key immediate contacts for advice. Furthermore each local authority has a duty to provide an Adult Protection Committee who host webpages detailing how the public can raise a adult protection concerns in each area and also details on the local policies and procedures.

Relationships of trust may be formed between an SDS employee and a vulnerable adult. Vulnerable adults should feel able to raise personal safety or wellbeing issues with an SDS employee in the knowledge that these will be dealt with sensitively.

However, if serious concerns are about to be raised by a vulnerable adult about personal safety or wellbeing issues, SDS employees have the responsibility of making it clear to the vulnerable adult what action(s) may subsequently happen.

If a vulnerable adult indicates to an SDS employee that they wish to discuss a personal wellbeing matter in confidence, before he or she discloses the information, the vulnerable adult must be advised that concerns for their wellbeing may have to be passed on to the local social work team.

It is important at this stage to re-assure and encourage the vulnerable adult seeking advice/support that all issues will be dealt with sensitively. However, it should be made clear to them that third parties may require to be informed.

### **Handling disclosure of a vulnerable adult protection concern**

How SDS employees deal with a disclosure is very important. The vulnerable adult may have chosen the SDS employee for some reason of his or her own; either they realise that they can help them, will believe them, or because they trust them.

It is important that employees understand their own feelings, experiences, understanding and personal values, which will influence how they may handle the situation. They should therefore think about neglect or harm, acknowledge their feelings and be aware of how they will influence their responses.

Employees should think about their responsibility towards the vulnerable adult and ensure that they can set aside their own feelings as much as possible as they will be able to deal with these after the event.

### **The following is a step-by-step guide to help SDS employees when faced with a vulnerable adult protection concern**

- Stay calm and try not to transmit your own feelings, which could be anger, shock or embarrassment. Remaining calm will lessen the effect of the trauma. It will also help the customer to know they are in control.
- The customer should be listened to and their concerns taken seriously. Vulnerable adults rarely lie about neglect or harm, especially sexual abuse. Remember anyone disclosing a vulnerable adult protection concern should always be taken seriously.
- You should facilitate the discussion in a supportive manner while maintaining appropriate client-adviser boundaries. Adults at risk of harm may feel very guilty about, or actual responsibility for, the neglect or harm. It is important, therefore, that you remind them that it is not their fault.
- It is vital to listen carefully to what the customer says and avoid making any assumptions noting the facts as they are described. Clarification may be sought but not beyond the point where the customer feels uncomfortable talking.
- You must not promise to keep it a secret, you cannot do so, and it would be wrong to deceive the customer. You should explain as simply as possible what and whom you will have to tell. The customer's consent is not required to share information. This will be a frightening time for the vulnerable adult and he/she may beg you not to say anything because they are frightened but it is likely that they would not have said anything unless they wanted to stop the neglect or harm.



You should then report the incident and, if they feel able, remain with the vulnerable adult to support them through the discussion/formal interview. SDS employees are required to use the recording form described in section 8.

- After the investigation, you may require someone to talk with in order to unburden yourself and come to terms with the emotions and feelings you have been experiencing.

In summary, key things to remember are:

**Do:**

- Be accessible and receptive;
- Listen carefully;
- Take it seriously;
- Reassure the person that they are right to tell;
- Say what will happen next (e.g. I need to tell someone);
- Seek advice from an appropriate person;
- Make a careful record of what was said.

**Don't:**

- React strongly (e.g. saying "how disgusting!");
- Jump to conclusions especially about the abuser;
- Speculate or accuse anybody;
- Tell the customer you will keep their secret;
- Make promises you cannot keep;
- Stop a vulnerable adult who is speaking freely.

## **Allegations against SDS Employees**

### *SDS employee recruitment and selection*

All applicants to SDS go through a formal application and interview process. If applicants will be working with children or young people/vulnerable adults they will be required to complete a PVG application in line with the Protection of Vulnerable Groups (Scotland) Act 2007. Full details can be found in the Protecting Vulnerable Groups and Disclosure Policy on Connect.

Under the terms of the SDS Employee Contract, new starts are required to confirm that there are no unspent criminal convictions which they may have failed to disclose to SDS at the time of application, and that they undertake to inform their line manager immediately if prosecuted for any criminal offence whilst employed by SDS.

*Child wellbeing/protection concerns - allegations made against SDS employees*

If you have a concern about a member of staff you should discuss this with your line manager or NPO. It is important that SDS staff are supported when allegations are made and that these will be taken seriously.

Any allegations made against SDS employees in relation to mistreatment of a child/young person or vulnerable adult will be investigated fairly and in line with SDS Disciplinary policy and procedure.

## 7. How to **Refer** a Vulnerable Adult Protection concern

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### **Making a Vulnerable Adult Protection referral**

When contemplating making a Vulnerable Adult Protection referral, employees should consider the following and may wish to seek the advice of the NPO:

- Do you have sufficient information about the customer if a referral is to be made?
- What other information do you need to make an informed decision and how should you go about obtaining it?
- Is there reason to have concerns about the customer's immediate safety?
- Are there issues of consent and/or confidentiality in respect of sharing information (Human Rights Act 1998, GDPR 2016)?
- Who else should you share the information with, and when and how should this be done?
- Have you and/or other staff written a report of the concerns, ensuring this accurately reflects anything a customer has said and distinguishes clearly between fact and opinion?
- Have you taken account of the customer's right to know what action, if any, will be taken? Have you ascertained their wishes and feelings?
- Have you provided for the customer's immediate support needs?
- Have you considered any support needs of the person reporting the concerns?

It is important that Adult Protection concerns are handled sensitively and only shared with others on a need to know basis. Once the concern is shared with the NPO they may seek advice from the Local Authority as to whether a referral is necessary.

It is **not appropriate** that SDS conducts an investigation into allegations of neglect or harm. That is the responsibility of the local Social Work teams and/or Police Scotland.

## 8. **Record** a Vulnerable Adult Protection concern

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To record a vulnerable adult welfare/wellbeing protection concern, staff must use the recording form (see appendix B). Recording the concern ensures that all relevant information is captured and stored securely and is ready to be passed to the relevant statutory authorities as required. Once the SDS staff member records the details on the form it must be emailed to the NPO using the SDS email system. The NPO will save the form within the relevant secure folder on IShare. All forms must be saved using the same naming convention:

First Name Last Name CSS Number

Staff should read through and acknowledge the data security and GDPR requirements when recording and storing the forms. Details are included on the recording form cover sheet.

### **General advice about recording concerns**

- Records should be made as soon as possible after the event/concern is raised;
- They should contain the date, time, people present, anything said (verbatim if possible) and any action taken;
- Physical appearance or behaviour of a customer should be recorded as factually and as accurately as possible
- Any observations of carers and details of family circumstances should be included where possible;
- Professional opinion should be set apart from factual observations and labelled as such. Judgmental language should be avoided;
- Initial discussion should take place between the person with the concern and their line manager or if unavailable a NPO where possible to reduce the chances of something being missed and /or misinterpreted. Employees should share their observations, concerns and any action already taken and what action they think should be taken next.

The NPO is important point of contact for employees/line managers if they are concerned about a vulnerable adult at risk. It is their role (sometimes after discussing the situation confidentially with other agencies) to decide whether a referral is necessary to protect the customer.

### **Supporting employees after a vulnerable adult protection disclosure**

Dealing with a vulnerable adult protection concern can be an emotive and stressful situation for the individuals concerned. Under its ongoing duty of care, SDS is committed to supporting employees and recognises that this will involve different approaches depending on the scenario and how the employee themselves feel. In all

cases employees should receive the appropriate level of support from their line manager as required and note that the Employee Assistance Programme is available should this be required.

## Appendix A. Nominated Protection Officer (NPO) role and responsibilities (including contact details)

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SDS has established the role of NPO to assist teams handle child protection concerns. The following sections contain an outline of the role and responsibilities of the NPO and a contact list for each region.

### **The role of the NPO is to:**

- Have a working knowledge of GIRFEC, the Named Person, Child Protection Case Conferences as per National Guidance for Child Protection Scotland 2014, Adult Protection process;
- Manage and refer all cases of suspected abuse to the appropriate agency, either Named Person, Social Work or Police Scotland;
- Act as a source of support, advice and expertise to staff on matters of child/adult wellbeing, child/adult welfare and protection when deciding whether to make a referral;
- Ensure that SDS Child Protection procedures are implemented and followed and to inform the child's Named Person of relevant concerns about individual children;
- Manage referrals and ensure that appropriate information is available at the time of referral and that the referral is confirmed in writing, under confidential cover as quickly as possible (e.g. within 1 working day);
- Liaise with the child's Named Person, Social Work and other agencies, as appropriate;
- Ensure that Child Protection Recording Form is completed including any action taken by SDS, the liaison with other agencies and the outcome;
- Support the development of Child Protection training.

### **The responsibilities of the NPO:**

- To act as the first point of contact for SDS employees concerned about the safety and welfare of a child/adult;
- To be responsible for contacting Social Work and or/Police Scotland in cases where a child/adult is at risk or harm;
- To be familiar with local child/adult protection procedures within Local Authorities;

- To be familiar with the SDS Child Protection procedure;
- To ensure that all employees know where they can find the Child Protection procedure;
- To advise and provide guidance to staff concerned about a child/adult protection issue;
- To support SDS employees after they have shared their concerns;
- To communicate to SDS staff any changes in policy and procedures;
- To support accurate record keeping relating to concerns about children/adults;
- To liaise with appropriate local agencies for support and advice and keep a list of local contacts;
- To help support the review and updates to the SDS Child Protection procedures;
- To contribute to the evaluation of the effectiveness of child protection procedures;
- To promote the importance of the child/adult protection agenda across their team/area within SDS;

| <b>SDS Team/Region</b> | <b>NPO</b>  | <b>Contact details</b>  |
|------------------------|---|---|
| North                  | Dave McCallum (Elgin)<br>Frances Webster (Campbeltown)<br>Roddy Bailey (Fort William)<br>George Junor (Inverness)   | 07917041999<br>07765894944<br>07765896350<br>07900 248722                 |
| North East             | Evonne Boyd (Dundee)<br>Heather Tytler (Dunfermline)<br>Jill Hunter (Perth)<br>Nicola Graham (Aberdeen)   | 07917068292<br>07766087075<br>07736791982<br>07770 543429                 |
| South East             | Andrea Hall (Musselburgh)<br>Julie Coyle (Edinburgh)<br>Val Ormiston (Stirling)<br>Shirley Davidson   | 07770 703983<br>07833 480508<br>07736364500<br>07775 020495               |
| South West             | Brian Cameron (Hamilton)<br>Claire Tooze (Kilmarnock)<br>Judith Thomas (Dumfries)<br>Robert Gemmell (Airdrie)   | 07881 501497<br>07785531004<br>07342076420<br>0781 0814551                |
| West                   | Shona Mitchell (Glasgow)<br>Laura McCormack (Glasgow)<br>Mary Carson (Dunbartonshire/Inverclyde)<br>Maurice Gilligan (Paisley)<br>Claire Johnston (Glasgow) | 07798572074<br>07786126683<br>07789481374<br>07778 748775<br>07900 248720 |
| National CIAG          | Greg Hiddleston (Paisley)<br>Karen McGuire (Glasgow)  | 07814117841<br>07812590117  |

|                                     |  |                             |
|-------------------------------------|--|-----------------------------|
|                                     | Pauline Stratford (Glasgow)                        | 0141 468 7697               |
| National Training Programmes (NTP)  | Marie Donnelly (Glasgow)<br>Lou Donnelly (Glasgow) | 077969 37473<br>07984034053 |
| Foundation/Graduate Apprenticeships | Jacqueline Kerr                                    | 07342076388                 |



## Appendix B. Vulnerable Adult Protection Recording Form

Before completing this form, staff **MUST** read and acknowledge this guidance which details how the information must be processed.

### Storing the form:

- A dedicated, secure IShare area has been set up to enable NPOs to save/retrieve the form once completed. To ensure confidentiality NPOs are only able to view their own local authority files, and NPOs working for non-CIAG departments likewise can only see their relevant folders.

### Storing, copying, printing or working on a hardcopy of the form in the office:

- **Only** NPOs are permitted to print the form in response to a request from the relevant external statutory agencies. NPOs should follow the steps below in these circumstances
- Ensure hardcopy is cleared away when not in use.
- When printing ensure that the form is picked up from the printer promptly. Secure printer function must be enabled/used.
- Out of hours – secure in a locked drawer or filing system.

### Carrying a hardcopy of the form outside of an SDS office:

- This is **forbidden**

### Carrying an electronic version of the form out of the office on a laptop/tablet/smartphone or memory stick:

- Only use SDS provided device. Do not let unauthorised people use your device.
- When using in a public place be aware of being overlooked.
- Ensure that information is only on the device for the minimum time necessary and that updated or new data is backed up onto **the specific secure protection folder** for NPOs on IShare when you return to the office. Note previous advice on “need to know access” setting – relevant staff only.
- If device is lost or stolen report immediately to EIS Service Desk - 0300 013 2111.

### Sharing or sending the form and its contents to an NPO:

- Use the SDS email system.
- **\*\*Check the email address is correct before sending\*\*.**
- Use Outlook Message options to set sensitivity level to “**highly confidential**”.

### NPO sharing/sending the form with the appropriate statutory agency outside of SDS:

- Share only with the statutory agencies involved in Child Protection investigations – Social Work/Police Scotland.
- Share the form with the statutory agencies only if requested. If the information is requested, the NPO must clarify the secure means by which the statutory agency would wish to receive the information.
- If asked to send hard copy, no security marking (e.g. private and confidential) should appear on the outer envelope. Double envelopes are required. Courier/registered mail is the recommended option
- Send SDS Confidential content as **WinZip AES 256 encrypted** attachments. Set a strong, complex encryption password. Communicate password verbally after confirming receipt of encrypted files. Do not use a previous password
- Ensure that the external recipient knows the classification level and is aware of the protection requirements.
- SDS email should be the default, however if faxing or scanning is the only option you must ensure the recipient is at the receiving end at the time of transmission.

**UNDER ABSOLUTELY NO CIRCUMSTANCES SHOULD INFORMATION BE POSTED ON SOCIAL NETWORKING OR PRACTITIONER COLLABORATION WEBSITES E.G. YAMMER – THIS WOULD BE REGARDED AS A SERIOUS BREACH OF DATA/CONFIDENTIALITY**

**Discussing the concern, line manager, NPO and agreed statutory agency (Social Work/Police Scotland). (face-to-face / phone call / conference call):**

- Ensure that the conversation cannot be overheard by those with no “need to know”.
- Do not leave confidential information on voicemail systems

**Retention period for the form and how do I dispose of it:** The form is recorded on IShare and is retained for 7 years and then is automatically deleted by the system.

- If hard copy has been generated, it must be disposed of by shredding or via confidential waste bins

## Vulnerable Adult Protection Recording Form

|   |                     |
|---|---------------------|
| <b>SDS – Vulnerable Adult Protection Recording Form - Confidential</b>  |                     |
| <b>This form should be completed by the SDS employee who has grounds for concern about a vulnerable adult. Before completing the form you must have spoken to a team leader/people manager or NPO for advice.</b>   |                     |
| Adult's Name:   | DOB                 |
| Address:  |                     |
| Lead agency worker (if in place)  |                     |
| Gender  | CSS number          |
| Relationship of SDS employee to the vulnerable adult - how regularly have you seen them and over what timescale? Why are you seeing them?   |                     |
| Date when you spoke to the adult:   |                     |
| <b>THE GROUNDS FOR CONCERN:</b><br>The nature of the incident/concern – this should include the date and time it occurred and who was involved. Where there is a concern for a vulnerable adult's wellbeing arising over a period of time and after many interactions please provide details.   |                     |
| Who have you spoken with? Manager/NPO/NSPCC:  |                     |
| Actions/decisions taken:<br><br>Reasons for decision:<br><br>Outcome of concern being shared:   |                     |
| Name of SDS employee:<br>Designation:   | Signature:<br>Date: |
| Next steps: <ul style="list-style-type: none"> <li>• Copy to be passed to the NPO by email using <b>only</b> the SDS email system. The NPO will advise which external agencies should receive any copies</li> <li>• <b>Data retention</b> - This form must be retained securely on the dedicated space (NPO access only) for seven years from the date of the disclosure. IShare is set up to delete the form automatically after 7 years.</li> </ul> |                     |

## Appendix C. Training, further sources of advice and support

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SDS requires employees to keep their knowledge of vulnerable adult protection and safeguarding up to date. All customer-facing CIAG teams will be provided with a half day training – Introduction to Child and Vulnerable Adult Protection delivered by NSPCC and this includes new staff as part of the induction programme. In addition, it is a requirement that employees maintain their knowledge and readiness to respond by regularly reviewing this procedure and associated policies/procedures.

Similar to other contexts immediate support should be through the employee's line manager. The NPO for each area/business unit should then be engaged for support concerning the disclosure and agreement on next steps. The NPO will advise on referrals and recording. For further advice on the NPO role please refer to appendix B.

Advice can also be sought from the NSPCC helpline:

**0808 800 5000**

Scottish Government Adult Protection resources -

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

## Appendix C. Key legislation

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### **The Social Work (Scotland) Act 1968 (as amended by the NHS and Community Care Act 1990 and the Community Care and Health (Scotland) Act 2002)**

The Act identifies a general duty to assess needs in relation to the provision of community care services and to give carers a right to have their needs assessed by the Council. It is expected that wherever possible intervention will take place under the Social Work (Scotland) 1968 as amended or will revert to this legislation whenever practicable.

### **Adults with Incapacity (Scotland) Act 2000**

The Adults with Incapacity (Scotland) Act 2000 is concerned with 'adults' aged 16 or over who are defined as being:

*'Incapable of acting, making decisions, communicating decisions, understanding decisions or retaining the memory of decisions, by reason of mental disorder or physical disability'*

An adult with an inability to communicate which can be "made good" by human or physical aid does not fall within the definition of the Act.

Capacity is not an 'all or nothing' state: an adult may be able to make decisions relating to some aspects of their life, but not others.

The Local Authority has a responsibility to investigate the circumstances of any individual at risk who comes under the powers/functions of the Act and the Local Authority also has a duty to investigate any circumstance made known to them in which the personal welfare of an adult seems to them to be at risk.

### **Mental Health (Care & Treatment) (Scotland) Act 2003**

*The 2003 Act* defines mental disorders as any mental illness, personality disorder or learning disability, however caused or manifested.

For people who have a mental disorder.

*Section 33* of the Act places a duty on the local authority to make inquiries where it appears that a person aged 16 or over in their area has a mental disorder and:

- The person may be or may have been subject or exposed to ill-treatment; neglect; or some other deficiency in care or treatment

or

- the person's property may be suffering or have suffered loss or damage; or may be at risk of loss or damage

or

- the person may be living alone or without care and unable to look after themselves or their property or financial affairs

or

- because of the mental disorder the safety of some other person may be at risk.

## **Adult Support and Protection (Scotland) Act 2007 -Code of Practice October 2014 (Chapter 3)**

### **Community Care and Health (Scotland) Act 2002**

It may be that adult's carer requires support to enable them to continue to support the adult. The above Act amends the Social Work (Scotland) Act 1968 to give carers a right to have their carer needs assessed by the council. It would be good practice to bring this assessment right to the notice of any carer providing a substantial amount of care where the carer appears to have unmet caring needs.

### **Vulnerable Witnesses (Scotland) Act 2004**

The Act provides support measures to help vulnerable adults participate more fully in court proceedings. A vulnerable witness is a witness in respect of whom 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. Special measures are intended to help vulnerable witnesses by providing appropriate support when they give their evidence to reduce any anxiety and pressure. It should be noted however that the final decision on whether to use special measures rests with the sheriff in court.

The definition of vulnerability used in this Act goes beyond the definition used within Adult Protection procedures but is likely to include all those covered within these procedures.

The factors listed within the draft guidance in deciding if special measures are required include:

- Mental disorder (including learning disability)
- Communication difficulties
- Behavioural indicators
- Age and maturity (including old age and frailty);

As well as more general factors which may apply in adult harm cases, including?

- Risk of intimidation
- Harm against older adults
- Serious or repeated sexual offences or extreme violence

- Domestic violence
- Any power imbalance between the witness and the accused at the time of the offence
- Where the accused is a significant family member
- Where the witness was dependent on the accused

The special measures for which adult witnesses may be eligible are;

- Live television link from another part of the Court building or place outwith that building
- Prior statements as evidence in chief (in criminal cases only)
- Taking statements on commission
- Use of a screen
- Having a supporter present when evidence, or combination of the above.

### **Forced Marriage (Protection and Jurisdiction) (Scotland) Act 2011**

A forced marriage is one where one or both parties are coerced into a marriage against their will and under duress. A forced Marriage is recognised as a form of 71 gender based violence.

Duress includes both physical and emotional pressure. Victims can suffer many forms of physical and emotional damage including being held unlawfully captive, assaulted and repeatedly raped.

Forced marriage is an abuse of human rights and cannot be justified on any religious or cultural basis. It is very different from arranged marriage, where both parties give their full and free consent to the marriage. The tradition of arranged marriages has operated successfully within many communities and many countries for a very long time.

The Forced Marriage Unit can provide information for victims, leaflets and support and may be contacted on **0207 008 0151**

Trained professionals offer confidential advice and assistance to:

- those who have been forced into marriage
- those at risk of being forced into marriage
- people worried about friends or relatives
- professionals working with actual or potential victims of forced marriage.

## **Scottish Government Multi agency guidelines for responding to Forced Marriage**

This guidance has a service specific guidance for different agencies including:

Adult Protection Staff; Children and Families Social Work Staff; Health Workers; Local Authority Housing staff; Schools College and University; and Police Officers.

Chapter 6 deals with the specific issues to be considered by agencies working with, or providing services, to adults and adults at risk.

The guidance states that the Adult Support and Protection (Scotland) Act 2007 sets out the roles and responsibilities of all agencies involved in protecting adults at risk and is the main point of reference for Adult Protection Committees. Each local Adult Protection Committee is responsible for developing its own guidance and training using the Adult Protection Code of Practice This code of practice fulfils the obligation placed on Scottish Ministers by Section 48 of the 2007 Act, to prepare a code of practice containing guidance about the performance of functions by councils and their officers and health professionals under the Act.

It provides information and guidance on the principles of the Act, about the measures contained within it, including when and where it would normally be appropriate to use such powers. The code should be used in conjunction with other relevant codes of practice as appropriate, such as the codes of practice for the:

- Mental Health (Care and Treatment) (Scotland) Act 2003,
- The Adults with Incapacity (Scotland) Act 2000
- Code of practice for Social Service Workers and Employers of Social Service Workers.

### **Victims and Witnesses (Scotland) Act 2014**

The Crown Office and Procurator Fiscal Service webpage contains information and guidance on the protections available to adults under the Victims and Witnesses (Scotland) Act 2014.

Victims Right to Review (Section 4) of the Act.

From the 1st July 2015 victims of a crime can for a review of a decision by the Fiscals Office not to prosecute or to stop or discontinue a case after it has started in court. This applies to decisions made after the 1st July 2015. Requests must be made within 1 month being notified of the decision.

It may be that an adult (or their proxy), who has been the victim of a crime and who has gone through the ASP process, but no action has been taken would like to request a review of the decision. Information is available on the Crown Office and Procurator Fiscal webpage [click here](#). In some cases an adult may just wish to ask why a decision was made rather than request a review. In this case the Victim Information and Advice service can be contacted by telephoning the enquiry line on 01389 739 557.

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