East Lothian and Midlothian Public Protection Committee

Multi-agency Adult Support and Protection Procedures

Version 1 November 2023

Table of Contents

1. Introduction

It is everyone's responsibility to support and protect adults at risk of harm. All staff, (including professionals and volunteers) working with adults at risk of harm need to work together to share information, assess needs and risks, and plan and deliver services in a co-ordinated manner. In doing, so, those working with the adult can reduce the risk of harm and promote their welfare.

These multi-agency Procedures outline the duties and responsibilities of agencies concerned with the support and protection of adults in East Lothian and Midlothian. These Procedures have been developed on behalf of the East Lothian and Midlothian Public Protection Committee (EMPPC).

Some agencies and professionals have specific duties and responsibilities for Adult Support and Protection under the Adult Support and Protection (Scotland) Act 2007 ('the Act'), and therefore require individual agency Procedures for more detail about processes. As such, these Procedures should complement and not replace individual agency Procedures or guidelines.

All agencies have a responsibility to involve themselves with the Act where appropriate by making referrals, assisting inquiries and through the provision of services to assist adults at risk of harm. These Procedures set out how organisations should discuss and share with relevant statutory agencies any information they may have about adults who may be at risk of harm.

These Procedures set out how we will deliver our vision for Adult Support and Protection in East Lothian and Midlothian. Everyone has a right to be safe and protected from harm and abuse. We will protect our children, young people and adults in East Lothian and Midlothian by working together. Our core values of respect, integrity and commitment underpin our work in supporting and protecting all people who may be at risk of harm in our communities.

It is a shared responsibility across all agencies to consider the needs of any child or young person who lives with or has contact with an adult who may be at risk of harm, or the person who is alleged to be causing that harm. Edinburgh and Lothians Multi-agency Child Protection Procedures *(insert link when available)* should be followed where it is believed that a child or young person may be at risk of significant harm, and a referral should be considered to one of the core agencies (Police, Social Work or Health).

All agencies providing a service or support for adults need to ensure that their staff (including paid staff and volunteers) are appropriately trained for their role. In addition to single agency training, agencies should refer to the East Lothian and Midlothian Public Protection Committee Training Calendar for information about available learning and development opportunities.

2. Legislative Context

These Procedures are drawn from the Adult Support and Protection (Scotland) Act 2007 ('the Act') and the associated Code of Practice (July 2022). The Adult Support and Protection Act is the legal framework for Adult Support and Protection in Scotland. The Code of Practice provides guidance about the performance by Councils, public bodies, and other professionals under the Act; it provides information on the principles of the Act, measures, and when to use powers. The Act is the 'what' and the Code of Practice is the 'how.' All professionals who are involved in Adult Support and Protection work should refer to the Code of Practice for further guidance and information.

3. Definitions of Adult at Risk and Harm

The Act defines an adult at risk, as a person aged 16 or over. Section 3(1) defines an 'adult at risk' as someone who meets **all** of the following 3-point criteria (also known as the '3-point test'):

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

Adults with capacity (to make decisions) can still be unable to protect themselves from harm, due to the impact of health conditions or issues (e.g., general frailty, trauma, or depression). In these cases, the adult may want to protect themselves from harm, but may be unable to, because of the way in which their health affects them. 'Unable' is defined as 'lacking the necessary power, ability, or authority (to do something)' (Collins English Dictionary). This is different from 'unwilling,' and it should not be assumed that the adult is capable of acting on decisions to protect themselves from harm. Adults may be unable to protect themselves if they are experiencing undue pressure from another person. Undue pressure is when another individual, either directly or indirectly through a third party, intimidates or manipulates the adult into making a decision that is harmful to themselves. It is the professional's responsibility to establish if a health issue is preventing the adult from protecting themselves from harm.

To meet the second point of the '3-point test', the adult must be assessed as being at risk of harm. Section 3(2) of the Act defines an adult as an adult as being at risk of harm if:

- Another person's conduct is causing (or is likely to cause) the adult harm; or
- The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

The Act defines 'harm' as all harmful conduct but does not provide an exhaustive list. It includes, as examples:

- Conduct which causes physical harm;

- Conduct with causes psychological harm (e.g., by causing fear, alarm, or distress);
- Unlawful conduct which involves taking over or adversely affecting an adult's property, rights, or interests (e.g., financial harm by theft, fraud, embezzlement, or extortion); and
- Conduct with causes self-harm (e.g., self-neglect, suicide).

The list is not exhaustive, and the impact of **any** form of harm should be considered. In general terms, behaviours that constitute harm to an adult can be physical, sexual, psychological, financial, or a combination of those. Harm can occur in person, on-line, through written communication or by telephone contact. When defining harm, it is irrelevant whether it is accidental or intentional.

Harm can take place in any setting, including the person's home or any other place where they are living or being supported. Harm may be caused by someone the adult knows and trusts, or by a stranger.

The National Minimum Dataset for Adult Protection Committees categorises primary types of harm and descriptor examples for national and local reporting purposes. Council Officers should ensure that the type of harm is clearly articulated in the risk assessment, and that the primary category of harm is recorded for these reporting purposes, as noted below:

Primary category of harm	Example descriptors (not exhaustive)[1]
Physical harm	Can include hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions.
Sexual harm	Can include rape and sexual assault or sexual acts to which the adult at risk has not consented, could not consent, or was pressured into consenting.
Psychological/emotional harm	Can include emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.
Financial or Material harm	Can include theft, fraud, exploitation, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions, or benefits.
Neglect and Acts of Omission	Can include ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition, or heating.
Discriminatory harm	Includes actions (or omissions) and/or remarks of a prejudicial nature focusing on a person's age, gender, disability, race, colour, sexual or religious orientation.

[1] As stated in the National Minimum Dataset for Adult Protection Committees (version 0.3, December 2022)

Self-Harm	When an individual, knowingly or unknowingly, behaves in a way that directly or indirectly, causes serious harm to their physical, psychological, or social well-being. Self-harm is a broad term and can express deep distress or trauma. This may manifest in various forms such as self-injury (such as cutting oneself), taking a drug overdose, having an eating disorder, being addicted to, or abusing alcohol or drugs, or simply not looking after their emotional or physical needs.
Self-neglect	The inability (intentional or non-intentional) to maintain a socially and culturally accepted standard of self-care with the potential for serious consequences to the health and well-being of the self-neglecter and perhaps even to their community. Self-neglect can include: • Lack of self-care to an extent that it threatens personal health and safety • Neglecting to care for one's personal hygiene, health, or surroundings • Inability to avoid harm as a result of self-neglect • Failure to seek help or access services to meet health and social care needs • Inability or unwillingness to manage one's personal affairs.
Domestic abuse	Domestic abuse can be any form of physical, verbal, sexual, psychological, or financial abuse which takes place within the context of a relationship. The relationship may be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse may be committed in the home or elsewhere including online. Examples of domestic abuse include: • Being threatened or name calling • Controlling what you do, where you go and who you speak to • Threatening your children • Not being allowed see friends and family • Sharing - or threatening to share - intimate images of you with family, friends, or work colleagues • Being hit, kicked, punched, or have objects thrown at you • Rape, being forced into sexual acts.
Other	Specify detail of what the harm is (this should be used in exceptional circumstances when any of the other categories noted do not apply)

4. Trauma Informed Practice in Adult Support and Protection

Trauma is a recognised mental health condition and therefore brings adults with trauma into the scope of the '3-point test' (i.e., the third point of the test, which covers mental disorder and mental infirmity).

Trauma informed practice in Adult Support and Protection is not intended to treat trauma-related issues. It seeks to reduce the barriers to service access for individuals affected by trauma, and to promote understanding of the impact of trauma on individuals. In practice, this means appreciating the impact of trauma and how it may affect the adult's ability to engage with support and protection. Consequently, we need to consider strategies to engage the adult more effectively in service provision. This could include repeat invitations for contact with a professional, a joint visit with someone whom the adult trusts, and seeing the adult at a time and in a place that better enables them to engage.

For a number of adults, a straightforward application of the '3-point test' is not possible, and some may remain in situations that continue to compromise their health, wellbeing, and safety. This could include people who have substance dependencies, or who are homeless or who hoard. All adults who have capacity have the right to make choices. For some adults with capacity, the complexity, severity, and persistence of post-traumatic reactions may affect them to the extent that they repeatedly take decisions that place themselves at risk of harm. Professionals have a responsibility to look behind the presenting behaviour to see if this is a post-traumatic reaction, and it is therefore important to consider the adult's experiences, and whether it is likely that these could have created trauma.

5. Scope of Procedures – 16- and 17-year-olds

While the Act defines an adult as a person over the age of 16, cross reference should be made to the Edinburgh and Lothians Multi-agency Child Protection Procedures (*insert link when available*). In the first instance, Child Protection Procedures should be considered for 16- and 17-year-olds, as 'child' is defined as a person up to 18 years of age, in line with the United National Convention on the Rights of the Child (UNCRC Definition). In general terms, while respecting the implications of different legal definitions of a child or adult, the most appropriate pathway (i.e., Child Protection or Adult Protection) should be considered through contacting Children's Social Work Services in the first instance, unless it is known that Adult Social Work Services are already working with the 16- or 17-year-old. There should be consultation between the core agencies of Police, Social Work and Health to determine which pathway (i.e., Child Protection or Adult Protection) is more appropriate, and to ensure timely and proportionate information sharing.

The systems and processes that are in place should not prevent any young person from getting the right support and protection that they need at the right time.

6. Roles and Responsibilities in Adult Support and Protection

The Act places duties upon the Council to make inquiries to establish if the adult is at risk of harm in terms of the Act. The Council has the lead role for co-ordinating the risk management of adults under Adult Support and Protection.

There are specific duties and powers under the Act that are reserved to Council Officers, who:

- Are registered social workers, Occupational Therapists or Nurses; and
- Are employed by the Council; and
- Have at least 12 months' post qualifying experience of identifying, assessing, and managing adults at risk of harm.

In practice, in East Lothian and Midlothian, Council Officers are Adult Services' Social Workers within the Health and Social Care Partnerships, and who have undertaken specific Council Officer training.

The agencies listed below (Section 5 of 'the Act') have a duty to refer where they **know or believe** an adult to be at risk of harm:

- The Mental Welfare Commission for Scotland;
- The Care Inspectorate;
- Healthcare Improvement Scotland;
- The Office of the Public Guardian;
- All Councils;
- The Chief Constable of Police Scotland;
- All Health Boards (including Special Health Boards); and
- Any other public body or office-holder as the Scottish Ministers may, by order, specify.

Agencies have the duty to co-operate with the Council in this work (Section 5(2)(a) and (b) of the Act). Section 5 provides that certain bodies must co-operate with the Council making inquiries under Adult Support and Protection and with each other where this is likely to support the Council making the inquiries. The bodies listed in Section 5 are:

- The Mental Welfare Commission for Scotland;
- The Care Inspectorate;
- Healthcare Improvement Scotland;
- The Office of the Public Guardian;
- All Councils;
- The Chief Constable of Police Scotland;
- All Health Boards (including Special Health Boards); and
- Any other public body or office-holder as the Scottish Ministers may, by order, specify.

While it is not specific in the Act, a range of other services also contributes to the protection of adults at risk. These include:

- GP Practices (There is specific guidance available for GPs and primary care teams), dentists and pharmacists;
- Scottish Fire and Rescue Service;

- Independent and Third Sector providers and other organisations; and
- Agencies of the Scottish Government (e.g., The Scottish Prison Service; Social Security Scotland).

While independent organisations including Third Sector providers do not have specific legal duties or powers under the Act, care providers have a responsibility to involve themselves with the Act where appropriate by making referrals, assisting inquiries and through the provision of services to assist people at risk of harm. These organisations should discuss and share with relevant statutory agencies information they may have about adults who may be at risk of harm. For more information, refer to the Code of Practice (page 31).

If there is other inquiry or investigation activity under other legislation (e.g., the Adults with Incapacity (Scotland) Act 2000 or Mental Health (Scotland) Act 2003)), an Adult Support and Protection referral should still be made and regarded as such by the Council.

7. Principles underpinning the Act

Adult Support and Protection in East Lothian and Midlothian will be conducted according to the principles of the Act. Any intervention:

- Will be the least restrictive in an adult's affairs which will provide benefit to the adult;
- Will take into account the wishes of the adult;
- Will have regard to the importance of the adult participating as fully as possible, and will involve providing the necessary information and support to enable them to participate;
- Will not result in the adult being treated less favourably than someone who is not an adult at risk; and
- Will take into account the adult's abilities, background, and characteristics (including the adult's age, sex, sexual orientation, religious persuasion, racial origin, ethnic group and cultural and linguistic heritage).

The operational delivery and management of all Adult Support and Protection processes should be informed by the National Health and Social Care Standards. All practitioners should be aware of how the Standards apply to their day-to-day work. The Standards provide a guideline for how to achieve high quality care. The Standards set out what we should expect when using Health, Social Care or Social Work Services in Scotland. They seek to provide better outcomes for everyone; to ensure that individuals are treated with respect and dignity, and that the basic human rights we are all entitled to are upheld. If all the Standards are being met consistently, it should be less likely that Adult Support and Protection measures are required.

The Standards are:

- I experience high quality care and support that is right for me.
- I am fully involved in all decisions about my care and support.

- I have confidence in the people who support and care for me.
- I have confidence in the organisation providing my care and support.
- I experience a high-quality environment if the organisation provides the premises.

8. Involvement of the adult in Adult Support and Protection processes

Under Section 2 of the Act, the adult should be supported to participate as fully as possible, and given whatever support is necessary to enable them to do so. Whilst this is primarily the responsibility of the Council Officer, the support of others working with the adult is essential to promoting better outcomes for the adult. The adult's point of view (on the risk and their desired outcomes) should be captured wherever practicable and used to inform the planning of support.

9. Reporting concerns about adults who may be at risk of harm

Concerns that an adult may be at risk of harm may arise in a number of ways:

- You may suspect that an adult is being harmed;
- You have seen an adult being harmed;
- An adult has told you that they are being harmed; or
- Someone else has told you that an adult is being harmed.

The adult may not be aware or understand that they are being harmed. They may not be able to communicate what is happening to them.

Whilst the consent of the adult is not required to make a referral, it is important to be open and transparent with the adult, at the same time not exacerbating the risk of harm.

Anyone who has concerns about an adult who they know or believe to be an adult at risk of harm should discuss this with their line manager or designated member of staff in the first instance. The absence of access to a manager should not delay any referral being made. An Adult Support and Protection referral can be made by e-mail or by phone. The Code of Practice states that where someone is suspected of being an adult at risk of harm, an Adult Support and Protection referral should be made to the Council within 24 hours of the concern coming to light – any delay should be recorded with reasons.

Where the adult is believed to be in immediate danger

Where the adult is in immediate danger, and/or there is concern that a crime has been committed against the adult, the Police should be contacted immediately. In an emergency, Police should be contacted on 999, and for all non-emergencies 101.

If the adult requires urgent medical attention, call an ambulance on 999.

A referral should thereafter be made to the relevant Council Contact Centre.

Where the adult is not believed to be in immediate danger

Where the adult is not believed to be in immediate danger, a referral about an adult at risk of harm should be made as soon as possible to the relevant Council Contact Centre, as below:

East Lothian	Midlothian
Contact Centre: telephone 01875 824309 communityaccess@eastlothian.gov.uk	Contact Centre: telephone 0131 271 3900 accdutyteamadmin@midlothian.gov.uk Report an adult protection concern | Instructions (midlothian.gov.uk)

If there are also concerns about a child or young person who is in contact with the adult at risk or the person(s) alleged to be causing harm, a referral should be made to Children's Services, as below:

East Lothian	Midlothian
Contact Centre: telephone 01875 824309 childrenandfamilies@eastlothian.gov.uk	Contact Centre: telephone 0131 271 3860 swc&fenquiries@midlothian.gov.uk

10. Information to consider when referring concerns

When making a referral, it is important to provide as much information as you can about your concerns. Referrers do not need to have evidence that all elements of the '3-point test' are met to make a referral. Their information may form part of a larger picture and it is the Council who will decide if the '3-point test' is met. This information should include (where known):

- Details of the person making the referral;
- Details of the person who you are referring (including name, address, age/date of birth);
- Details of the concern, including as much information about the incident(s), dates, who or what is believed to be causing harm;
- What type of harm is suspected;
- Anyone else involved with the adult (including family/carers/professionals); and
- Any information about the person who is believed or known to be causing harm to the adult as they may also require an assessment of need due to their own vulnerabilities.

While referrals can be made anonymously, this would not apply to professionals who would be making a referral under their Section 5 responsibilities.

Any professional making a referral should record their concerns and action taken in their agency's case recording system, in accordance with their agency Procedures.

11. Duty on Councils to Make Inquiries

On receipt of a referral, the Council has a duty to make inquiries if it **knows or believes** that a person is an adult at risk of harm. The Council will make a decision about whether to proceed with an Inquiry (also known as Duty to Inquire) within 24 hours. This involves the screening of all referrals to Adult Social Work Services (including those determined by the referrer as an Adult Support and Protection referral and Welfare referrals) to determine if an Inquiry is required.

The Inquiry (DTI) is an assessment to determine whether the adult's circumstances meet the '3-point test' and what risk management is necessary to support and protect the adult at this stage. In practice, in East Lothian and Midlothian, the Council Officer will undertake the Inquiry (DTI). The Inquiry (DTI) is ongoing assessment work that continues until Adult Support and Protection activity is closed. This may or may not include the use of investigative powers.

The Code of Practice moves away from talking about inquiries and investigations. It distinguishes between an Inquiry (DTI) without the use of investigatory powers and an Inquiry (DTI) with the use of investigatory powers.

An Inquiry (DTI) without the use of investigatory powers is essentially a desktop exercise (which can include records checks and contact with other professionals for information). Professional judgement needs to be used to ascertain when the use of investigatory powers is required to inform the assessment of risk. This will be based on the concerns around the level of risk identified in the referral and any other information already known about the adult.

An Inquiry (DTI) with the use of investigatory powers involves using any of the following, undertaken by a Council Officer:

- Section 7 - visit
- Section 8 – any interview
- Section 9 - medical examination
- Section 10 – examination of records
- Protection Orders

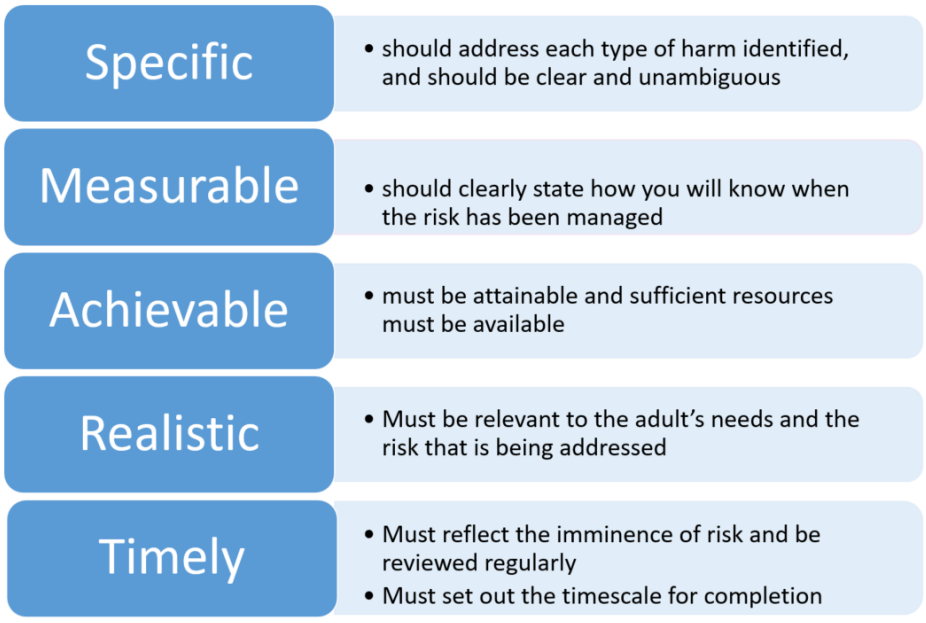
The Council Officer's assessment of risk is an essential component of the Inquiry (DTI). The Act requires other agencies to co-operate with the Council Officer's inquiries. This will support the Council Officer to gather and review all the relevant information to identify the historical and current factors for the adult, their life circumstances and behaviour that support the potential to experience harm. Risk factors to be considered at this stage will include:

- All types of harm that may be experienced by the adult;
- The level of vulnerability of the adult;
- Degree and extent of harm;
- Imminence and likelihood of harm;
- Degree of threat or coercion; and
- The impact on the adult.

At the initial information gathering stage, if there are any parallel investigatory processes (e.g., Police investigations into possible criminality) staff should refer any such concerns through their appropriate line manager.

The Council Officer will develop an interim safety plan in partnership with the relevant agencies who can contribute to the safety and protection of the adult. The plan should address immediate safety concerns and be proportionate to the assessment of harm. Those who are participants in the plan must understand and agree what they must do to ensure an adult's safety and know what their responsibilities are in implementing the plan.

The plan should be SMART:



The Inquiry (DTI) should be completed within 21 days of the screening decision. Where this is not possible due to the complexity of the Inquiry (DTI), managerial oversight of the progress of the ongoing Inquiry (DTI) will be necessary to minimise delay and ensure safety for the adult.

12. Information sharing

A Council Officer (or a Community Care Assistant/Worker on their behalf) may contact any other professionals or agency as part of the Inquiry (DTI) and will make it clear that the

request for information is being made under 'the Act.' Where any professional or agency receives a request from the Council Officer to provide information as part of the Inquiry (DTI), a response should be provided with no delay, to enable the Council Officer to assess the level of risk.

The information provided should be proportionate and relevant to the Inquiry (DTI) being investigated and highlight any additional concerns to support the Council Officer's assessment of the '3-point test'.

Any information received during an Inquiry (DTI) will be treated with the utmost confidence and will not be disclosed to any third parties, other than in accordance with the provisions of the Act.

Data protection law enables organisations and businesses to share personal data securely, fairly, and proportionately. Where the concerns relate to an adult who may be at risk or harm, there is nothing in the Data Protection Act 2018 or GDPR that prevents someone from sharing personal data where it is appropriate to do so.

The Information Commissioner's Office sets out the lawful basis for sharing personal information, which applies to Adult Support and Protection. In summary, the lawful bases on which agencies will rely are as follows:

Summary of lawful bases for sharing personal information in an ADULT SUPPORT AND PROTECTION context	
Public interest or public task	Is necessary for performance of a task carried out in the public interest, which is laid down by law, or in the exercise of an official authority, for example, a public body's tasks, functions, duties, or powers.
Vital interests	Is necessary to protect someone's life or, for example, if an adult is deemed to be at risk of harm.
Legal obligation	Is necessary to comply with a common law or statutory obligation.
Reference: Lawful basis for processing | ICO	

Section 10 of the Act provides that a Council Officer may require any person holding health, financial or other records relating to an adult known or believed to be at risk to give the records, or copies of them, to the Council Officer. This should not preclude co-operation under Section 5 of the Act. These records will be used to establish whether further action is needed to protect the adult from harm.

The Council Officer will make a Section 10 request for access to records in writing (unless that request is made during a visit to the person holding the records). The Council Officer

will specify to the record holder that they require records to be given under this Section. The Council Officer can inspect the records to ascertain what is relevant, and the record keeper should provide copies of the relevant parts.

The record keeper is legally obliged to comply with a request for access to records.

The Council Officer may inspect health records only for determining whether they are health records. Only a health professional can interpret any medical records provided to the Council Officer.

13. Possible Outcomes of Inquiry (DTI)

The Council Officer will make a recommendation about whether the '3-point test' is met or not. This will be reviewed by a Social Work Manager who will decide on the next steps. The possible outcomes will be recorded (and used for reporting purposes) as one of the following:

- Does not meet '3-point test' – no further action
- Does not meet '3-point test' – managed through existing care plan involvement
- Does not meet '3-point test' – referred to non- Adult Support and Protection services
- Meets three-point criteria – manage through existing care plan
- Meets three-point criteria – ongoing Adult Support and Protection work (this includes progression to IRD and/or Adult Support and Protection Case Conference).

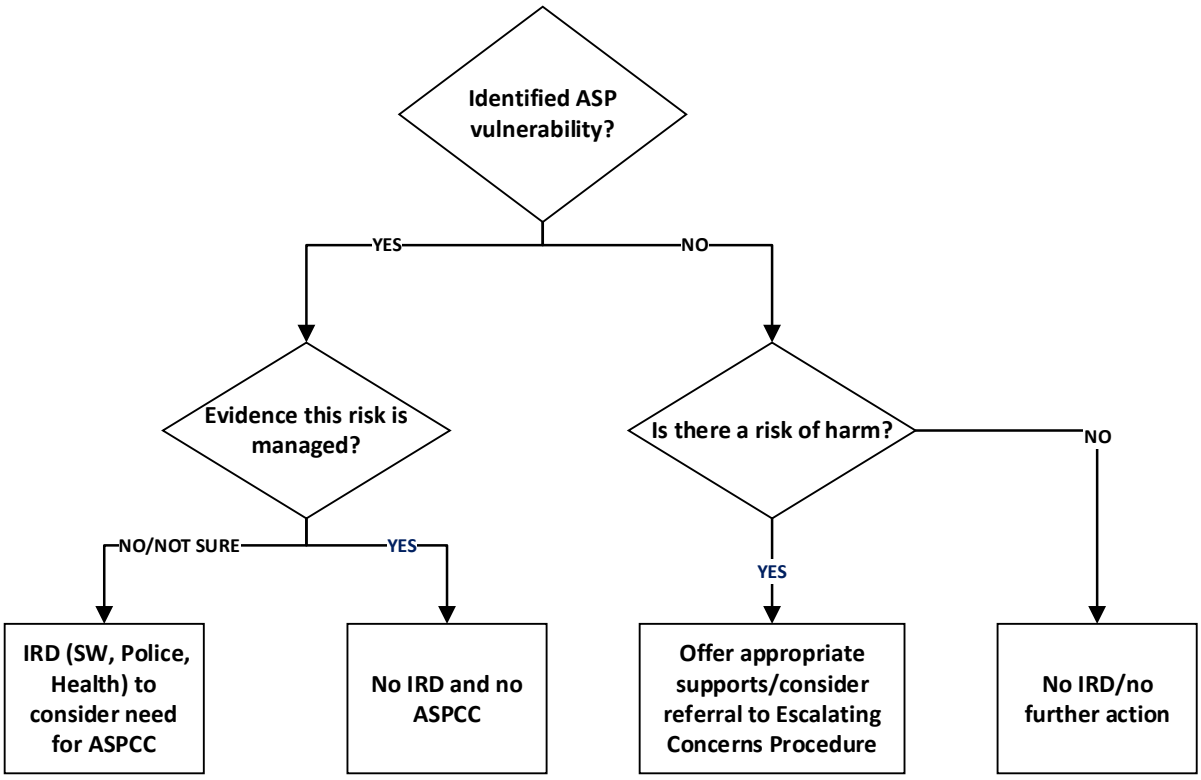
The Council Officer should notify the referrer of the outcome of the Inquiry (DTI).

14. Escalating Concerns Procedure

Where the '3-point test' is not met, the referrer should be advised that they can make a referral under the EMPPC Escalating Concerns Procedure. This provides a process for cases where the referrer is still concerned that the adult is at risk of harm, but current risk management frameworks cannot manage that risk and where a multi-agency approach may be beneficial. This should be used for the critical few who are at imminent, likely, and severe levels of risk.

15. Interagency Referral Discussion (IRD)

Criteria for holding an IRD



If the Inquiry (DTI) concludes that the '3-point test' is met, an IRD should be started within seven calendar days of the decision of the Inquiry (DTI). The IRD provides a multi-agency lens on the assessment of risk by sharing information between Police, Social Work and Health to:

- Review the work undertaken to date and agree what further steps are necessary to manage risk by developing a multi-agency interim safety plan and identifying the lead agency;
- Determine whether a criminal investigation may be required;
- Decide to progress to Adult Support and Protection Case Conference if '3-point test is met';
- Decide if any Adult Support and Protection Orders are appropriate;
- Consider the need for a Large-Scale Investigation (where appropriate); and
- Decide what alternative risk management is necessary if the '3-point test' is not met.

An IRD will be instigated by any one of the three IRD participants and are conducted by designated members of staff in each of the three agencies.

All Adult Support and Protection aspects of the IRD must be recorded on the e-IRD recording system (which is an electronic recording system hosted by NHS Lothian). The record should

be updated as information is shared, and decisions are made. The rationale for decisions and a SMART Interim Safety Plan should be clearly recorded.

If the Social Work Manager assesses that a Case Conference should be held as a matter of urgency, this should progress prior to the IRD where necessary.

IRD Review and Sign-off

Every IRD record will be reviewed on a monthly basis by the multi-agency IRD Overview Group, which will assess:

- Whether the criteria for holding an IRD was met;
- Whether sufficient information was shared to inform assessment of risk;
- If the '3-point test' is still met;
- Ensuring there is clear rationale for holding an Adult Support and Protection Case Conference or non-Adult Support and Protection risk management; and
- If the interim safety plan is SMART and addresses every risk.

The IRD Overview Group will authorise closure of the IRD.

16. Investigative Interview

Under Section 7 and 8 of the Act, a Council Officer and any person accompanying them, have the right to visit the adult in any place and privately interview them. Ideally this should be done in co-operation with anyone who has decision-making powers for the adult (i.e., Power of Attorney or Welfare and/or Financial Guardian), but this is not legally required. Where the alleged harmer is the Power of Attorney or Guardian, the Council Officer should exercise caution and seek management advice, so as not to compromise any Inquiry (DTI) work and potential criminal investigation. The purpose of the Interview is to enable the Council Officer to gather information directly from the adult to establish if the adult has been harmed or is at risk or harm and elicit their views and wishes. Consideration should be given to the use of a second worker ('Council Officer Nominee') to support the interview process. This could be any other person whom the adult knows well or a professional (including volunteers) with particular expertise required for the interview.

The Council Officer should proactively seek the consent of the adult to be interviewed, whilst also making them aware of their rights not to answer any questions. This is regardless of whether the adult lacks capacity, using whatever communication supports are appropriate for that adult. In keeping with the Act's principles, the adult must be assisted to participate as fully as possible. This can include the presence of an advocate or other person who can support the process.

In exceptional circumstances (in relation to safety and infection control concerns arising from a physical visit), a virtual meeting with the adult can take place to undertake the investigative interview. This should be recorded as such.

17. Advocacy

The Act places a duty on the Council to consider the need to provide independent advocacy to ensure that an adult's voice is listened to, and their views taken into account. The Council Officer should ask the adult if they know about and would like advocacy support at the start of any Inquiry (DTI). If the adult states at the outset that they do not wish independent advocacy, this should be clearly recorded, and the offer should be re-visited whenever the adult's views are to be sought (e.g., prior to an Investigative Interview or an Adult Support and Protection Case Conference).

The Council Officer will contact the appropriate independent advocacy organisation to make a referral for the adult. If the adult lacks the ability to communicate, the Council Officer will contact an advocacy organisation that offers non-instructed advocacy. In non-instructed advocacy, the advocate will seek to uphold the adult's rights by establishing their views as much as possible and gathering information from others involved in the adult's life.

The advocate should be invited to any Adult Support and Protection Case Conference (with the adult's permission where that can be given).

18. Assessing and Managing the Risk of Harm

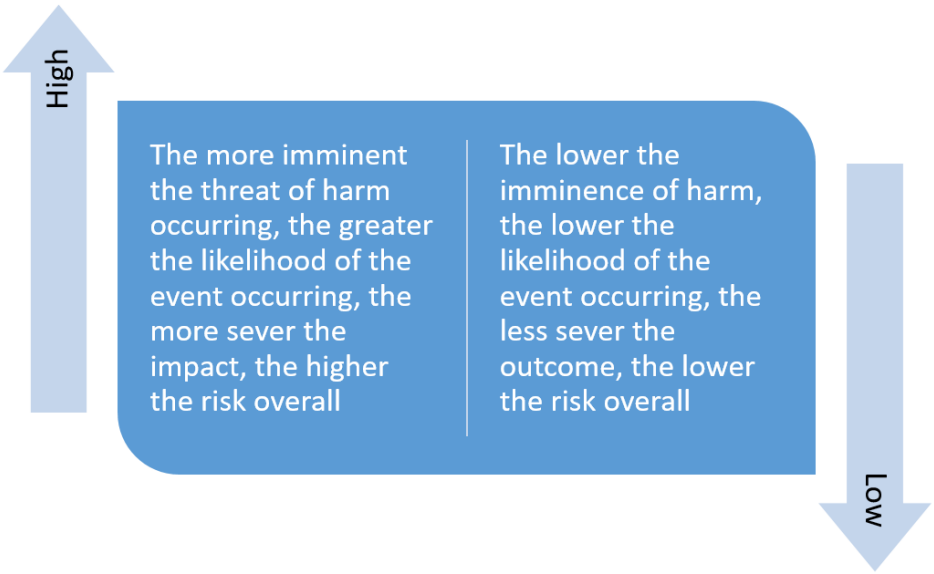
The '3-point test' determines whether the adult at risk meets Adult Support and Protection criteria. This is focused on whether a health issue renders the adult unable to protect themselves from harm. This includes physical and mental health issues (e.g., in situations of coercive control or undue pressure), which reduce the adult's resilience, leaving them unable to take or action decisions that would protect them. It is important, as part of the assessment, to understand the adult's decision-making processes. This should include an understanding of any factors that may have affected upon them. Further to this, professionals should assess the nature and severity of any risks identified, including when and where the adult may be paced at risk and an identification of the factors that will impact on the likelihood of risk. Robust risk management includes:

- Involvement of the adult and any carer/relative;
- Multi-agency working to identify, assess and manage the risk; and
- Evidence based practice (for example, trauma informed practice) – using knowledge from research and theory to understand the adult's experience.

Risk assessment is a process, not an event. An adult who has been assessed as not meeting the '3-point test' at one point in their life may nonetheless meet the criteria at another point. In approaching the risk assessment, there is a need to take into account not just the current picture and history, but potential and capacity to change.

The assessment of the '3-point test' and the development of a support and prevention plan are enhanced by the application of the TILS risk assessment framework, as summarised below:

Type of harm	• Financial harm, psychological/emotional harm, self-harm, physical harm, sexual harm, neglect etc.
Imminence	• How immediate is the threat? Is the event likely to occur today, within the next day, week month?
Likelihood	• What are the chances of the event happening with the current controls in place? Is it certain? Very likely? Possible? Unlikely?
Severity of impact	• Severity of the impact of each harm identified. How serious is the outcome likely to be (e.g. how severe is an injury or illness likely to be?)



Risk management involves taking active steps to limit the impact of a risk occurring. This is sometimes known as the 'four Ts.' Professionals should decide which response is appropriate:

- **Treat the risk** - putting in measures to reduce the likelihood of the risk happening, or reduce the severity of the impact (e.g., corporate appointeeship to manage the risk of financial harm).
- **Terminate the risk** - to remove the risk altogether (e.g., may involve the adult moving to live somewhere else if the risk of the person living alone cannot be safely managed).
- **Transfer the risk** - transfer the consequences of a risk event to another party (e.g., power of attorney).
- **Tolerate the risk** - involves putting in place contingency plans where all options have been explored, everything has been put in place, but the risk cannot be reduced. It is anticipated that this should be used rarely. In these circumstances, referral under the Escalating Concerns Procedure should be considered to ascertain if extra-ordinary service responses should be put in place.

All options require good recording to support defensible decision-making.

A SMART plan should be developed for addressing the risks that have been identified and assessed. Professionals should consider using a tool such as SWOT analysis (identifying strengths, weaknesses, opportunities, and threats) when reviewing the effectiveness of the SMART plan.

At any point during the assessment process, it may become apparent that alternative legislation (e.g., Adults with Incapacity (Scotland) 2000 or Mental Health (Scotland) Act 2003) is necessary, to complement existing Adult Support and Protection work, or to replace the risk management under Adult Support and Protection. The Council Officer should consult the duty Mental Health Officer to decide whether this is necessary. Mental Health Officers should be invited to Case Conferences where the use of alternative mental health

legislation is to be considered (e.g., to decide whether an application for Welfare Guardianship should be made).

19. Chronologies

A chronology is a record of significant events both positive and negative, in the order they occur, which reveal patterns of behaviour and their impact on an adult's life.

The chronology is regularly analysed for patterns of behaviour and for the impact of these behaviours on the adult's life. This helps us to better understand the adult's needs and risks, which then informs planning and decision-making for the future.

Social Work, Health, Police and Education should use the Pan-Lothian Chronology template which includes the following information:

- Date/date range;
- Significant event;
- Outcome (what happened to the person as a result; and
- Source of information (name and agency, where applicable)). This means chronologies can be more easily integrated and transferred between agencies and across local authority areas.

The Council Officer will lead the development of a chronology as part of their inquiries, incorporating contributions from partner agencies. Agencies involved with the adult are expected to share information about key significant events. The chronology should be reviewed to ensure its quality is consistent with the Pan-Lothian model. The perspective of the adult at the centre of the Adult Support and Protection process should be explored to gain understanding of the impact of events and to check their perception of accuracy. This should be reflected in the chronology to support the analysis of risk.

20. Case Conference

An Adult Support and Protection Case Conference will take place within no later than 21 calendar days from the date of decision that a Case Conference is necessary.

If the concerns are sufficient in terms of likelihood, imminence, and severity of risk to the adult, the Case Conference can take place before the IRD.

An Adult Support and Protection Case Conference is a multi-agency forum for shared decision-making. The Chair of the Adult Support and Protection Case Conference will be an Adult Social Work Services Manager, and Business Support in Adult Social Work Services will carry out the administration. The Chair will:

- Agree who to invite and ensure that all persons invited understand its purpose and the relevance of their particular contribution;
- Ensure the adult's views are taken into account and they are supported to participate;

- Facilitate information-sharing, analysis and consensus about the risks and protective facts;
- Facilitate decisions about the best way forward;
- Agree the content of the support and protection plan and ensure it is SMART; and
- Facilitate the identification of a core group of staff responsible for implementing and monitoring the plan;
- Agree review dates; and
- Following on actions and responsibilities when these have not been met.

All professionals who are involved with the adult and/or who have a role in the development of a multi-agency support and protection plan should be invited. Those who have decision-making powers for the adult (e.g., Power of Attorney, Welfare or Financial Guardian) and Advocacy Workers should be invited, unless there are concerns that this would compromise the Inquiry (DTI), where they are the identified harmer. Family members and informal carers should be invited where appropriate, unless they are the alleged source of harm to the adult.

The multi-agency response to any identified harmer should be considered as part of the protection planning for the adult.

The adult should be given the option of attending, with appropriate support, unless attendance would be harmful to the adult, or they are not able to contribute. Consideration should be given to attendance at the whole meeting or part, and how the meeting should be structured to best support the adult to participate in the meeting. If there is likely to be consideration of the use of the Adults With Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003, a Mental Health Officer should be invited. If it is anticipated that the need for a legal order under Adult Support and Protection is likely to arise during discussion, consideration should be given to consulting or inviting the Council Solicitor.

The Council Officer will provide the Investigation Report and Chronology no later than three days before the Case Conference. All invitees are expected to attend the Case Conference, share information, and contribute to the discussion and plan. If the invitee is not able to attend, they should provide a written report detailing their involvement and assessment of risk.

The Chair has discretion as to when any restricted information will be discussed with only the professionals present. This needs to be decided on a case-by-case basis, with arrangements made to minimise the time the adult (and anyone supporting the adult) is waiting to attend the Case Conference.

Restricted information is information that cannot be shared freely with the adult or anyone supporting them. It can only be restricted on the following basis:

- Sub-judice – this is information subject to legal proceedings or police enquiries (e.g., a report to the Procurator Fiscal); or

- Third party information – this is information from or about another person which may identify them if shared or information about an individual which may not be known to others, including family (e.g., medical history, previous convictions, Police intelligence).

Once the Case Conference has considered the overall information, risks and strengths, the Case Conference will:

- Agree a SMART support and protection Plan;
- Agree the need for a Core Group, its frequency, and its membership, including Chair;
- Agree the need for any legal order to manage risk; and
- Decide if there is a need for a further Adult Support and Protection Case Conference (based on an analysis of whether the '3-point test' continues to be met);
- Agree any necessary support plan where Adult Support and Protection processes are no longer needed; and
- Consider referral under the Escalating Concerns Procedure, where the criteria for referral are met (where high levels of risk remain unmanageable despite Adult Support and Protection risk management).

21. Review Adult Support and Protection Case Conferences

If it is agreed that the '3-point test' continues to be met at the conclusion of any Adult Support and Protection Case Conference, a review Adult Support and Protection Case Conference should take place no later than three months. If there is a particular risk that needs to be monitored between the Case Conferences, a Core Group should be arranged to review the progress of the Plan and update this accordingly.

22. Adult Support and Protection Orders

There are three types of Protection Orders that are available, all of which require an application to the Sheriff Court. Protection Orders must be in line with the principles of the Act, and therefore must be the least restrictive option that will provide benefit to the adult. Although an application for a Protection Order can take place at any point of the Adult Support and Protection Process, the decision to apply for a Protection Order will normally take place at an Adult Support and Protection Case Conference. The application will be made in writing by the Council Solicitor, who will guide the Council Officer about the Court process and the supporting information/evidence that is required to accompany the application.

- An Assessment Order – this allows the adult to be taken to a place where they can be interviewed and examined (e.g., by a specified health professional) in private to establish whether the adult is an adult at risk who requires measures to be put in place to prevent them from harm. This order would be necessary only if it were not possible to carry out the interview or examination at the place of the visit.

- A Removal Order – this allows the Council to remove the adult to a specified place within 72 hours of the order being granted and for the Council to take such reasonable steps as required to protect the adult from harm.
- A Banning Order – this bans the subject of the order from a specified place and may have other conditions attached to it. A power of arrest can be attached. It may last for a period not exceeding six months. In situations of urgency, a temporary banning order may be granted. The subject of the Banning Order will be notified of the application; however, the Sheriff can dis-apply this requirement if satisfied that this is necessary to protect the adult from serious harm. The adult's consent to a Banning Order is necessary unless they lack capacity or there is evidence that the adult may be considered to have been unduly pressurised.

23. Allegations against members of staff – whistleblowing

Where a concern arises that someone who works with vulnerable adults is causing risk of harm, Adult Protection Procedures should be followed to ensure that the risk to the adult(s) is assessed and managed in a timely manner. This is regardless of whether disciplinary processes or complaints Procedures are instigated.

The person raising the concern should raise the matter through their organisational line management structure and with regard to their organisational Procedures on whistleblowing and raising concerns about a staff member.

If a concern relates to a member of staff (or volunteer) in another organisation, the line manager of the person raising the concern should contact the relevant line manager of the other organisation.

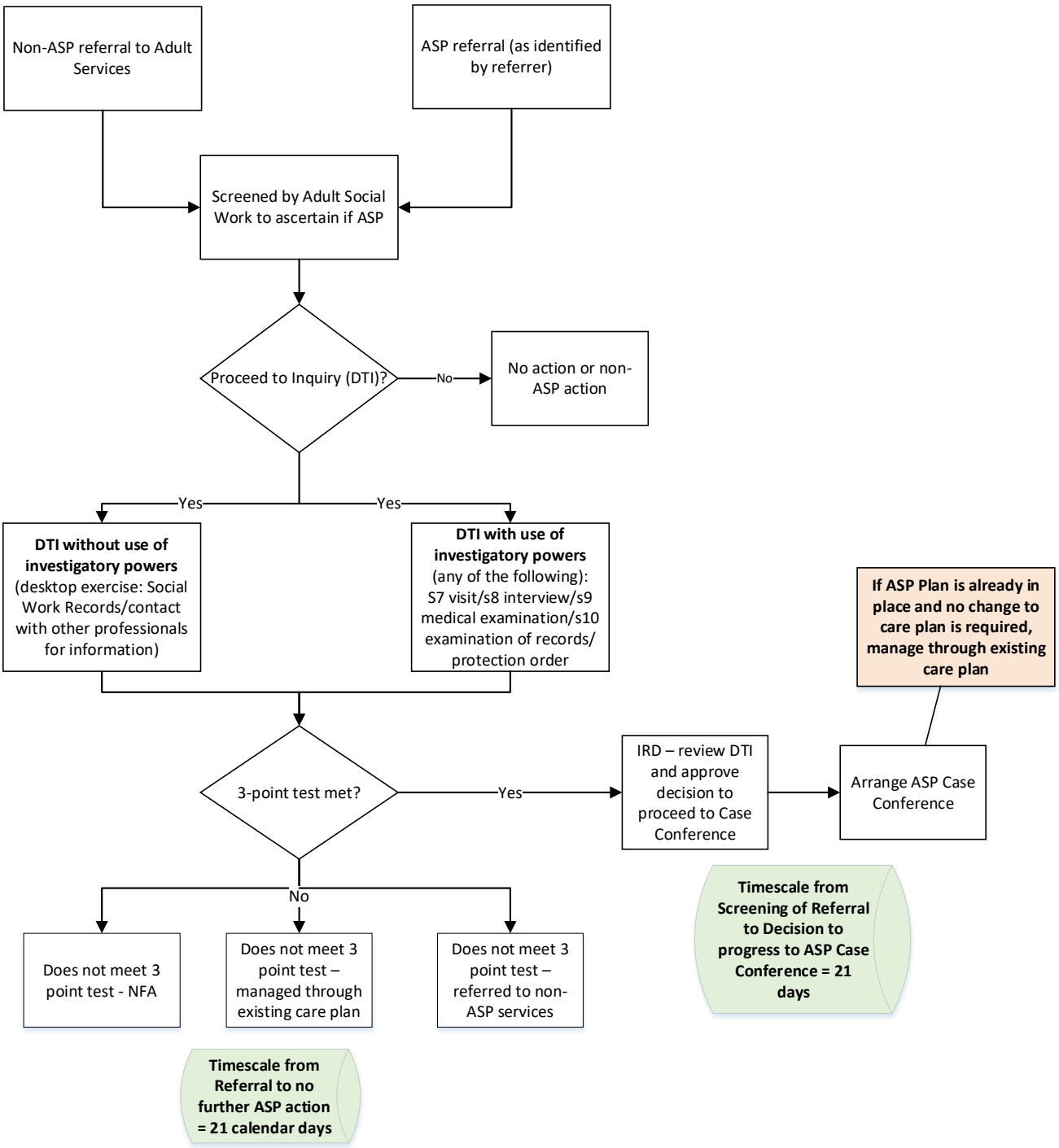
Consideration should also be given to referral to other agencies as appropriate, including the Care Inspectorate, Scottish Social Services Council, Mental Welfare Commission, and Office of the Public Guardian (Scotland).

24. Large Scale Investigations

A Large-Scale Investigation is a multi-agency response to circumstances where there is concern about an adult, or adults who may be experiencing harm or are at risk of harm. The Act makes no reference to Large Scale Investigations. The Code of Practice states that "an LSI may be required where there is reason to believe that adults who are service users of a care home, supported accommodation, an NHS hospital or other facility, or who receive services in their own home, may be at risk of harm due to another service user, a member of staff, some failing or deficit in the management regime, or in the environment of the establishment or service.

The Pan-Lothian Large-Scale Investigation Protocol (May 2022) provides a framework for an alternative process to holding large numbers of individual Adult Support and Protection Inquiries/Investigations and ensure there is adequate overview/co-ordination where several agencies have key roles to play.

25. Summary of Adult Support and Protection Process



26. Summary of Timescales for Adult Support and Protection

What	When	Who
A referral should be made to the Council	Within 24 hours of someone suspecting that an adult is at risk of harm	Anyone who has a concern
Screening decision receipt of a referral to Adult Social Work Services	Within 1 working day of receipt of referral	Team Leader/Senior Practitioner
Completion of an Inquiry (DTI)	Within 21 calendar days from date of screening decision to the decision to progress to Adult Support and Protection Case Conference or to exit Adult Support and Protection Process	Council Officer (and sign-off by Team Leader)

27. Key Contacts

For any further advice about these Procedures, please contact:

Alan Laughland, Adult Support and Protection Lead Officer, East Lothian and Midlothian Public Protection Office

emppo@eastlothian.gov.uk

Version number	Date	Lead	Date of Review
Version 1	November 2023	Alan Laughland, Adult Support and Protection Lead Officer	November 2024