

CLACKMANNANSHIRE COUNCIL

Report to Council of 6th November 2008

**Subject: Adult Support and Protection (Scotland) Act 2007 :
Implementation October 2008**

Prepared by: Clare Hebbert - Adult Care Policy Officer

1.0 SUMMARY

- 1.1. This report provides information about the introduction of the Adult Support and Protection (Scotland) Act 2007, the new legislation to support adults who are vulnerable and may be at risk.
- 1.2. Local Authorities have received Scottish Government funding to put structures and procedures in place for implementation of Part 1 of the Act from 28th October 2008. From a £7.8m allocation, Clackmannanshire is in receipt of £76,555 to cover the implementation period October 2008 - March 2009.
- 1.3. Proposals are set out in this report for an Adult Protection Committee Structure and for the appointment of a Lead Officer. A Training Plan is also required to prepare Council staff, and also external partners, for these new statutory duties and functions.

2.0 RECOMMENDATIONS

- 2.1. Council approval is sought for the allocation of funding and agreement to proceed with appointments, training and implementation as required by legislation :

Setting up an Adult Protection Committee : To proceed with interim arrangements for a jointly-funded Forth Valley area-wide Adult Protection Committee, hosted by Stirling Council

Appointment of a Lead Officer : To proceed with the appointment of an Adult Support and Protection Lead Officer for Clackmannanshire and administrative support

Designation of Council Officers to carry out investigations : Identified professionally qualified staff in the Adult Care services to receive training and take on the new statutory duties and functions. The recruitment of an additional community care worker with allocated funding in 2009-2010.

Training Plan : To proceed with interim arrangements for up to one year, subject to review, for the recruitment of a joint-funded Forth Valley area-wide Adult Support and Protection Training Coordinator, hosted by Clackmannanshire Council

Funding Allocation : Expenditure of £76,555 allocated funding for Clackmannanshire October 2008 to March 2009 **see Appendix 1**

3.0 BACKGROUND

- 3.1. Legislation to protect adults at risk of harm was first announced by the First Minister in September 2005. The Adult Support and Protection (Scotland) Act was passed by the Scottish Parliament in February 2007. Part 1 of the Act deals with the protection of adults at risk of harm and is effective from 29th October 2008
- 3.2. The Act progresses aspects of the Scottish Law Commission's 1997 draft Vulnerable Adults Bill that have not previously been enacted through the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003.
- 3.3. Local authorities have new statutory duties and powers and there are some key multi-agency functions and responsibilities contained in the legislation; these include the roles of regulatory bodies, health services, police, housing agencies, voluntary organisations and advocacy services.
- 3.4. The Act provides a legal framework in which agencies can address the challenge of striking a balance between a) enabling individuals to lead independent lives, and to make informed choices that might involve a degree of risk, and b) protecting those who may not be able to do so for themselves.
- 3.5. The main features of Part 1 of the Act are :-
 - To provide greater protection to those thought, or known, to be at risk of harm, through new powers to investigate and intervene in situations where concern exists
 - To place a duty on specified organisations to cooperate in investigating suspected or actual harm
 - To place a duty on Councils to make enquiries and investigations to establish whether further action is required to stop or prevent harm occurring
 - To introduce a range of protection orders, including assessment orders, removal orders and banning orders which require approval by a sheriff
 - To provide a legislative framework for the establishment of Adult Protection Committees across Scotland

A general principle of the Act is that any action taken should be for the benefit of the individual and that the least restrictive option for intervention should be considered :

'Adults at risk' are defined as those adults (people aged 16 or over) who are affected by illness, mental disorder, disability, infirmity or ageing, and as a result are at risk from abuse.

'Abuse' is defined to include any conduct which harms or exploits an individual. Four kinds of abuse are listed : physical abuse, psychological abuse, abuse by theft and fraud, and self abuse. In general terms, abuse is defined to also include any other conduct causing fear, alarm or distress and conduct which results in the dishonest taking of property from the victim.

3.6 Further guidance and explanatory notes on the Act and Code of Practice are available as Background documents.

3.7 Implementation Plans

For implementation of the Act from November 2008 the following proposals require endorsement by Council :-

- Setting up an Adult Protection Committee
- Appointment of a Lead Officer
- Designation of Council Officers to carry out investigations
- Training Plan
- Funding Allocation

3.7.1 Setting up an Adult Protection Committee

Section 42 of the Act states that each Council must establish an Adult Protection Committee with the following strategic and monitoring functions :-

- a) To keep multi-agency adult protection procedures and practices under review and to make proposals for good practice
- b) To improve knowledge and skills among members
- c) To improve cooperative working across agencies
- d) To give information and advice to statutory members on the safeguarding and protection of adults at risk

3.7.2 **Membership** : Membership of Adult Protection Committees should include the following core representation :

Procurator Fiscal

Council

The Care Commission and Mental Welfare Commission

NHS

Police

Office of the Public Guardian

- 3.7.3 While Adult Protection Committees are required to be set up for each Council area, local authorities are encouraged to work together.

The Forth Valley G5 Group has agreed a proposal submitted by the Forth Valley Vulnerable Adults Steering Group for a single Forth Valley Adult Protection Committee structure.

3.7.4 Proposal for a Forth Valley Adult Protection Committee :

The Forth Valley Adult Protection Committee will be representative of the three Councils with core committee representation from statutory bodies and a single Convenor/Chair

The Committee will have three separate lines of governance in terms of duties discharged by the three local authorities and to accommodate local variation.

- 3.7.5 The Committee will meet on a quarterly basis with a common central agenda and three local agendas, which will each be informed by reports from Lead Officers in the three Council areas. The Councils' Lead Officers will provide a bridge between the Committee's strategic overview and front-line operations.

- 3.7.6 The Committee may also be informed by other representation and reference groups, such as service users, carers, care providers and advocacy organisations.

In addition to quarterly meetings, some training and review sessions will be undertaken by Committee members.

3.7.7 Arrangements for starting up the Forth Valley Adult Protection Committee

For implementation in October 2008 and for a one-year period, it is proposed to appoint an interim/temporary Chairperson, with Stirling Council as the host authority and with joint funding from the three Councils.

Invitations will be posted to engage core representatives for an initial meeting in November 2008.

Further arrangements for training, terms of reference and procedures, reporting, details for reference groups and other representation will be taken up by the newly convened Committee.

In this interim period, each Council will appoint a Council Officer to support the Committee.

Administrative support will be provided

3.7. 8 Appointment of an Adult Support and Protection Lead Officer

A proposed job description for an Adult Support and Protection Lead Officer is under consideration for grading and approval by Human Resources.

This will be a key appointment to ensure that the Council's statutory duties and functions are properly discharged and appropriately reported; this is the first stage of setting up a Clackmannanshire 'Adult Protection Unit' as described in the legislation and guidance.

The post will be based in Adult Care, overseeing and coordinating operational functions for the support and protection of adults in Clackmannanshire under new Act, in addition to associated legislation, and reporting to Council. The Lead Officer will also provide professional support and reports to the Adult Protection Committee and link with national and regulatory bodies.

The Lead Officer post will require some administrative support.

3.7.9 Designation of Council officers to carry out investigations

The new range of duties and provisions to support and protect people at risk will need to be embedded with the broad range of statutory duties that are already applied across Adult Care services.

The Adult Support and Protection Lead Officer will oversee the statutory duties and functions required under the terms of the new Act and also the current provisions of the Adults with Incapacity Act and the Mental Health Officer duties under the Mental Health Care and Treatment Act.

Designated staff across Adult Care services will be professionally qualified staff (social workers and occupational therapists) and they will also receive some additional training. The funding allocation from April 2009 will allow for additional recruitment to a new community care worker post.

Designated officers will be required to carry out investigations and take appropriate action to ensure the safety of a person who is, or is thought to be, at risk of abuse or harm.

3.7.10 Training Plan

A national programme of training is already underway; regional and local training sessions have been attended by senior officers in the Council.

National guidance sets out a proposal for multi-agency training about the new Act on three levels. Local authorities have received the funding with which to ensure that a range of training opportunities are available to internal and external multi-agency partners and stakeholders :-

Level 1 : Awareness-raising for basic knowledge

This is a briefing session for Councillors, NHS, CHP and Police Board members

Level 2 : Awareness-raising, knowledge and understanding

A more detailed awareness raising training for all relevant local authority, health services, voluntary, independent and private sector staff, including front-line, clerical, legal and administrative staff

Level 3 : Detailed knowledge and understanding

Training for specialist Council officers, senior staff and managers in local authority police and health care sectors, Adult Protection Committee members, Regulatory Bodies, and training for Trainers

3.7.11 Proposal for a Forth Valley area-wide Training Coordinator

A comprehensive and rolling multi-agency training programme, that covers all three levels and reaches a broad range of people, needs to be started up locally.

Through the Forth Valley Vulnerable Adults Steering Group, a Forth Valley area-wide approach to training, with the appointment of a Forth Valley area-wide Training Coordinator for Adult Support and Protection, is proposed by Clackmannanshire, Stirling and Falkirk Councils.

This will be a joint-funded, Clackmannanshire-hosted temporary appointment for up to one year initially and subject to review by the Steering Group. The post will be based in the Clackmannanshire Social Services Training Section.

The post holder will be required to develop a Training Plan for the Forth Valley area and to oversee and facilitate access to multi-agency training on the three levels.

The post would be cost effective, simplifying communications with external partners and agencies such as NHS Forth Valley and Central Scotland Police and will ensure an equitable standard of training across Forth Valley that is accessible to a wide range of people.

3.7.12 Pending approval for this appointment, and in the knowledge that a post holder may not be appointed until early in 2009, interim arrangements are being put in place in each Council area to ensure that relevant key staff receive appropriate training for the implementation of the Act from 28th October 2008.

3.7.13 Funding Allocation

The Scottish Government has been in negotiation with COSLA to reach a funding agreement for the period October 2008 - March 2009, following bids from Councils on their resource requirements to cover :

- Setting up Adult protection Committees
- Additional Lead officer and staff requirements
- Local training needs

£7.8m has been made available to authorities to assist with implementation of the Act from October 2008 to March 2009 and it has been agreed that £0.2m will be allocated to the Police for their specific functions in respect of the Act.

For 2009-2010 funding of £15.6m has been agreed in principle.

A breakdown of the Clackmannanshire allocation is attached as **Appendix 1**

4.0 CONCLUSIONS

4.1 The Adult Support and Protection (Scotland) Act is an important piece of legislation being put in place to support adults who are at risk . The implementation date is 28th October 2008. Scottish Government Funding has been allocated for implementation. This report sets out the proposals for implementation and seeks Council approval to proceed with the following :

- **Setting up an Adult Protection Committee** : Interim arrangement for a jointly-funded Forth Valley area-wide Adult Protection Committee, hosted by Stirling Council
- **Appointment of a Lead Officer** : To proceed with the appointment of an Adult Support and Protection Lead Officer for Clackmannanshire and administrative support
- **Designation of Council Officers to carry out investigations** : Identified professionally qualified staff in the Adult Care services to receive training and take on the new statutory duties and functions. The recruitment of an additional community care worker with allocated funding in 2009-2010.
- **Training Plan** : Interim arrangement for up to one year, subject to review, for a jointly-funded Forth Valley area-wide Adult Support and Protection Training Coordinator, hosted by Clackmannanshire Council.
- **Funding Allocation** : Expenditure of £76,555 allocated funding for October 2008 to March 2009 **see Appendix 1**

5.0 SUSTAINABILITY IMPLICATIONS

5.1. No significant sustainability issues

6.0 FINANCIAL IMPLICATIONS

6.1. Scottish Government specific funding for the discharge of statutory duties

6.2. Declarations

(1) The recommendations contained within this report support or implement Corporate Priorities, Council Policies and/or the Community Plan:

- **Corporate Priorities (Key Themes)** (Please tick)

Achieving Potential	<input type="checkbox"/>
Maximising Quality of Life	<input checked="" type="checkbox"/>
Securing Prosperity	<input type="checkbox"/>
Enhancing the Environment	<input type="checkbox"/>
Maintaining an Effective Organisation	<input type="checkbox"/>

- **Council Policies** (Please detail) Vulnerable Adults Policy

- **Community Plan (Themes)** (Please tick)

Community Safety	<input checked="" type="checkbox"/>
Economic Development	<input type="checkbox"/>
Environment and Sustainability	<input type="checkbox"/>
Health Improvement	<input checked="" type="checkbox"/>

(2) In adopting the recommendations contained in this report, the Council is acting within its legal powers. (Please tick)

(3) The full financial implications of the recommendations contained in this report are set out in the report. This includes a reference to full life cycle costs where appropriate. (Please tick)

Head of Service

Director



Report to Council

To accompany all Reports to Council

To: Head of Administration And Legal Services

Author: Clare Hebbert	Date: 19th September 2008
Service: Council	
Date of Meeting: 6th November 2008	
Title of Report: Adult Support and Protection Act Implementation 2008	

Recommendation that the attached report be:

1. Given unrestricted circulation

(tick appropriate box)

2. Taken in private

By virtue of paragraph ____ of schedule 7A, Local Government (Scotland) Act 1973.

Appendices attached to this report (if none, state "none")

1. Adult Support and Protection Funding Allocation
- 2.
- 3.

List of Background Papers (if none, state "none")

1. Code of Practice : Guidance Notes on the Adult Support and Protection Legislation
2. Sustainability checklist
- 3.
- 4.

Note: All documents specified must be kept available by the author for public inspection for four years from the date of the meeting at which the report is considered.

CLACKMANNANSHIRE COUNCIL - SERVICES TO PEOPLE**ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007****Proposed Expenditure of Scottish Government allocation for Implementation**

Funding Allocation for ASP Implementation	October 2008 - March 2009	April 2009 - March 2010
Clackmannanshire Allocation	£ 76,555	£156,000 to be confirmed
Clackmannanshire allocation for Central Scotland Police implementation costs	£ 1,910	£ 3,800 to be confirmed
Proposed Expenditure :		
Clackmannanshire Contribution to Forth Valley Adult Protection Committee : Convenor/Chair and setting up costs / administration	£ 5,000	£ 5,000 subject to review
Appointment of an Adult Support and Protection Lead Officer	£ 25,000 Recruitment and up to 6mths post	Circa £ 45,000 p.a.
Administrative costs	£ 5,000	£ 8,000
Designated Officer post (s)	-	Circa £ 35,000 (£ 25,000) subject to review
Training :		
Clackmannanshire Contribution to Forth Valley Training Coordinator 5:3:2 Forth Valley split for one year	£ 8,000	£8,000 subject to review
Administrative costs	£ 5,000	£ 5,000 subject to review
Purchase of Training for Adult Protection Committee, Council Officers, public, private and voluntary sector partners including health services and police	£20,000	Rolling programme of training £40,000
Publicity costs, materials and other administration	£ 3,555	tbc
TOTAL	£ 76,555	

