

REPORT

To: SOCIAL WORK (OPERATIONS AND SERVICES) SUB COMMITTEE		Subject: PROTECTING VULNERABLE ADULTS – SECURING THEIR SAFETY.
From: DIRECTOR OF SOCIAL WORK		
Date: 4 OCTOBER 2005	Ref: MW	

1. Purpose of Report

To advise Committee of the consultation paper, Protecting Vulnerable Adults – Securing their Safety, which was recently published by the Scottish Executive, and to seek homologation of the Council's response.

2. Background

2.1. From 2002 the Scottish Executive has issued a series of consultation papers about the protection of vulnerable adults. The first consultation in 2002 sought comments on a range of legislative proposals including rights of entry to properties and exclusion orders for perpetrators of abuse. The second consultation, in 2004, focused on policy intentions to identify and make known to prospective employers people considered unsuitable to work with vulnerable adults.

2.2. The third and current consultation, Securing their Safety, updates and extends the scope of earlier consultations. It proposes, subject to support, that legislation, namely a Vulnerable Adults Bill, be introduced to the Scottish Parliament in the future. Consultation responses were required by 23 September 2005.

3. Proposals/Considerations

3.1. Securing Their Safety is concerned with two main areas: the protection of vulnerable adults from abuse, and the existing legislative provision for adults with a learning disability who offend or are at risk of offending / reoffending.

3.2. At the present time there is no general statutory duty on public authorities to investigate where a vulnerable person seems to be at risk from abuse. The proposals provide a legislative basis and framework for a range of duties and responsibilities, which will include:

- a duty to investigate where a vulnerable person, or a person suspected of being vulnerable, seems to be at risk from abuse
- a power to contact the person and inspect the premises where he or she is
- a power to carry out or instruct relevant assessments of the person and their circumstances
- a power to intervene to remove or manage the risk of abuse
- if necessary and in the last resort, to exclude the perpetrator
- if necessary and in the last resort, a power of forcible entry to perform the above functions
- a duty to establish multi-agency Adult Protection Committees to jointly manage adult protection policies, systems and procedures at a local level.

- 3.3. The consultation document is also concerned to establish views on whether further measures additional to existing legislation are required to meet the needs of people with a learning disability who offend or are at risk of offending. While no specific proposals are made, the appropriateness of existing legislation, and the lack of flexible options therein e.g. diversion from prosecution is questioned.
- 3.4. North Lanarkshire Council Social Work Committee in May 2004 approved the Protection of Vulnerable Adult Procedures, which provide guidance for staff in the investigation of abuse, and the management of risk. These procedures were agreed by a range of key partners including Health, Police and the Care Commission. A multi-agency Steering Group for the Protection of Vulnerable Adults has been convened to implement existing proposals to establish an Adult Protection Committee.
- 3.5 North Lanarkshire Council has responded positively in support of the proposal for a Vulnerable Adults Bill. The proposed measures provide for a comprehensive response to individuals in need of protection from abuse, while the proposal to require Adult Protection Committees to be established echoes existing proposals within North Lanarkshire.
- 3.6 North Lanarkshire Council has also indicated that while separate legislation for adults with learning disabilities who offend or are at risk of reoffending may be appropriate, that the need for this should be reviewed following the implementation of the Mental Health (Care and Treatment) Act 2003, which comes fully into effect on 3 October 2005.

4. **Financial/Personnel/Legal/Policy Implications**

- 4.1. The introduction of proposed new legislation and its implementation will have significant policy/legal/financial/personnel implications for the Council and its partners, the extent of which will be the further consideration by the above Steering Group and reported to a future Committee.
- 4.2. The Scottish Executive has indicated that following analysis of the consultation it will consult upon a regulatory impact assessment. This will provide the opportunity for public authorities to detail the range and scope of implication and the resources required.

5. **Recommendation**

- 5.1. Committee is asked to:
- (i) homologate the attached Council response
 - (ii) request the Director of Social Work to provide future reports to Committee on the proposed legislation and the regulatory impact assessment
 - (iii) otherwise note the contents of this report.


Jim Dickie
Director of Social Work
5 September 2005

For further information on this report please contact Mary Wilson, Service Manager, Community Care (Adults), Tel: 01698 332172

North Lanarkshire Council
Social Work Department

Protecting Vulnerable Adults – Securing Their Safety

Question 1: Do you agree with the revised definition of a vulnerable adult?

Within North Lanarkshire Council's own Protection of Vulnerable Adult Procedures a vulnerable adult is defined as:

Any person aged 16 or over (but not the responsibility of the local authority under child care legislation) who is, or may be in need of support services, and who by reason of mental or other disability, age or illness, is unable to take care of him/herself or protect him/herself from harm or exploitation and therefore may place themselves in situations of risk.

This does not conflict with the revised definition of a vulnerable adult.

Question 2: If you do not agree with the revised definition of a vulnerable adult, what changes do you think require to be made of it?

Age alone would not indicate a need for community care services, therefore this might be amended to frail older people / older people with support needs.

Question 3: Do you agree with the definition of abuse?

North Lanarkshire Council agrees with the definition of abuse.

Question 4: If you do not agree with the definition of abuse, what changes do you think require to be made?

Not applicable.

Question 5: Do you agree that Adult Protection Committees should lead the investigation of abuse, including investigations of abuse in regulated care services?

North Lanarkshire Council is in agreement with the proposal and the inclusion of regulated care services. Within North Lanarkshire Council a multi-agency Steering Group for the Protection of Vulnerable Adults is currently working to establish an Adult Protection Committee.

Question 6: If you do not agree, what objections do you have and what alternatives do you consider possible or desirable?

Not applicable.

Question 7: Should the structure and powers of Adult Protection Committees be defined in statute or a statutory instrument or not?

The structure and powers of Adult Protection Committees should be defined in statute or a statutory instrument. The recent research concerning Child Protection Committees would suggest that such a framework would be helpful.

Question 8: When abuse of a vulnerable adult is proved, what risk assessment and management should take place?

The question is framed in such a way as to suggest that risk assessment and management will follow when abuse is proved. However it will not always be possible to prove that abuse has taken place. Risk assessment should be part of the investigation and initial assessment around allegations of abuse. Risk management should be based on the identification of risk, a protection plan and multi disciplinary case conferencing and review.

Question 9: Do you agree that mediation should be offered to all those who are subject to abuse? If you do not agree, please state your key reservations.

The term mediation is used without this being defined. It is not clear therefore what is referred to. Is this social work intervention based on the protection plan, or some independent service aimed at reconciliation?

Question 10: If mediation were to be offered, how could this be done?

Given the complexity of circumstance and individual need, and the range of skills around assessment and intervention the protection of vulnerable adults should be undertaken by qualified social workers.

Question 11: Do you agree that guardianship is the most appropriate method to protect and control some people with a learning disability who may also exhibit challenging behaviours?

Guardianship provides for detailed powers to control and protect some people with a learning disability who might also exhibit challenging behaviours, while being underpinned by principles which include least restriction. In this respect it may appropriately be used.

Question 12: If you do not agree, what alternative methods could be provided other than detention under the 2003 Act?

Not applicable.

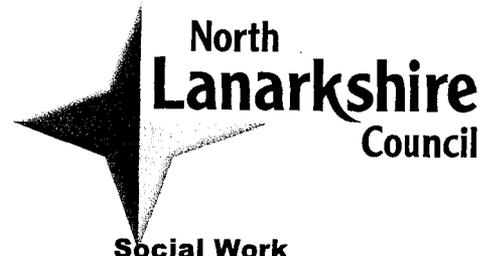
Question 13: Is it preferable to make a different provision for the compulsory care of people with a learning disability outwith the 2003 Act?

The 2003 Act is yet to be implemented and it is therefore difficult to predict how its provisions will be interpreted for people with a learning disability. The pattern of use of the 2000 Act has varied widely across the country and the range of options have been extended and explored over time. However in respect of offending behaviours separate legislation might offer a flexible range of options for treatment, rehabilitation and protection.

Question 14: What would the implications of change be in practice?

Not applicable.

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Date: 21 September 2005



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Dear Ms MacLellan

Protecting Vulnerable Adults – Securing Their Safety

North Lanarkshire Council welcomes the opportunity to comment on the above named consultation paper.

Attached is the response set out in the prescribed format.

I trust these comments are helpful to you.

Yours sincerely

Jim Dickie
Director of Social Work

