

EAST AYRSHIRE CHIEF OFFICERS GROUP: 25 MARCH 2011

REPORTING AND REFERRAL ACTIVITY

STATUTORY INTERVENTIONS TO PROTECT VULNERABLE ADULTS

Report by the Head of Service (Community Care)

1 PURPOSE OF REPORT

- 1.1 To advise the East Ayrshire Chief Officers of the range of legislative routes available for protection of adults at risk.
- 1.2 To note the process endorsed by the Adult Protection Committee on 23 February 2011 to establish regular reporting to the Committee of our legal interventions which will facilitate full and informed consideration of all possible routes to protect within the adult support and protection agenda.

2 BACKGROUND INFORMATION

- 2.1 There are currently three pieces of legislation available which can be considered with respect to the protection of vulnerable adults:
 - (i) The Adults with Incapacity (Scotland) Act 2000
 - (ii) The Mental Health Care & Treatment (Scotland) Act 2003
 - (iii) The Adults Support & Protection (Scotland) Act 2007
- 2.2 The Adults with Incapacity (Scotland) Act 2000 can be utilised where adults have been assessed as lacking capacity with respect to all or elements of their lives. Interventions can be granted to intervene in order to manage either welfare and/or financial matters of the person lacking capacity by social work services or privately by friends of families.
- 2.3 The Mental Health Care & Treatment (Scotland) Act 2003 requires the person to have a diagnosis of mental disorder which includes mental illness, learning disability and personality disorder in order to secure the authority to intervene in terms of treatment, location and support provision.
- 2.4 The Adult Support and Protection (Scotland) Act 2007 enables interventions with respect to people who are considered to be both vulnerable and at risk of harm however interventions require to be agreed by the subject.
- 2.5 All three Acts can be utilised in order to protect vulnerable adults, however due consideration is required as to which may be most appropriate with respect to meeting the needs of the situation.

3 CURRENT PRACTICE

- 3.1 East Ayrshire Council has developed a Legal Solutions Forum where experienced mental health managers along with a legal services representative consider situations as described by individual social workers relating to individuals on their case loads where intervention may be required to protect and provide guidance with respect to the most appropriate legislative route.

- 3.2 As case law develops through the establishment of practice of these three pieces of legislation this becomes increasingly complex, requiring all staff involved to maintain and update their knowledge base.
- 3.3 Mental Health Officers recently attended a workshop which considered all three Acts, where they cross over and where they might be best considered.

4 CONSIDERATIONS

- 4.1 The risks associated with existing performance reporting within the context of Adult Support and Protection legislation is that alternative legislative solutions may have been applied in order to protect which would not be reflected in statistics. As an example, there are currently 111 people subject to Guardianship in East Ayrshire. In order to provide protection for them these 111 all require their Guardianship Orders to be supervised by a Social Work officer.
- 4.2 At present there are no established reporting processes for interventions within the Mental Health Care & Treatment (Scotland) Act 2003.
- 4.3 In addition, there is no forum to consider and evaluate legal interventions across the Acts.

5 AGREED ACTIONS

- 5.1 To establish a regular reporting process with respect to the activity of the Legal Solutions Forum which details all legislative interventions and summarises scenarios presented for consideration.
- 5.2 This reporting will enable an overview of the practice, resource commitments and range of interventions utilised to protect beyond the confines of the ASP.
- 5.3 It will also enable informed consideration with respect to resource and training requirements across agencies involved in protection activity.

6. RECOMMENDATIONS

- 6.1 The Chief Officers Group (Child, Adult and Public Protection) is asked to:
- (i) note the endorsement by The East Ayrshire Adult Protection Committee to establish regular reporting to the Committee of our legal interventions
 - (ii) Otherwise note the contents of this report.

Eddie Fraser
Head of Service, Community Care
23 February 2011
EF/AF

Implementation Officer- Richard Stevens, APC, Independent Chair

Any person wishing further information on the contents of this report please contact Alison Findlay, Senior Manager on (01563) 576895