

ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1

Protection of Adults at Risk of Harm

Introductory

Section 1 – General principle on intervention in an adult’s affairs

4. This section sets out the general principle on intervention in an adult’s affairs. It applies for the purposes of section 2 of the Act only. The general principle states that a person may intervene or authorise an intervention in an adult’s affairs, only where the person is satisfied that the intervention will provide benefit to the adult and that it is the least restrictive option of those that are available which will meet the objective of the intervention.

Section 2 – Principles for performing Part 1 functions

5. Any public body or official who carries out any functions under this Part must give consideration to the general principle set out above, the feelings of the adult at risk (as far as they can be ascertained) and the views of other significant individuals with an interest who are known to the public body or office-holder.
6. Consideration should also be given to the importance of the adult at risk participating as fully as possible by making sure that appropriate information and support is provided. The adult at risk should not be treated any less favourably than any other adult in a comparable situation and due regard should be given to the adult’s abilities, background and characteristics.

Section 3 – Adults at risk

7. This section defines ‘adults at risk’. These are adults (aged 16 or over) who are unable to safeguard their own well-being, property, rights or other interests, are at risk of harm, **and** because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected. ‘Harm’ is defined in section 53.