



# Adult Support and Protection (Scotland) Act 2007

2007 asp 10

## PART 1

### PROTECTION OF ADULTS AT RISK OF HARM

#### *Introductory*

#### **1 General principle on intervention in an adult's affairs**

The general principle on intervention in an adult's affairs is that a person may intervene, or authorise an intervention, only if satisfied that the intervention—

- (a) will provide benefit to the adult which could not reasonably be provided without intervening in the adult's affairs, and
- (b) is, of the range of options likely to fulfil the object of the intervention, the least restrictive to the adult's freedom.

This section applies for the purposes of section 2 only.

#### **2 Principles for performing Part 1 functions**

A public body or office-holder performing a function under this Part in relation to an adult must, if relevant, have regard to—

- (a) the general principle on intervention in an adult's affairs,
- (b) the adult's ascertainable wishes and feelings (past and present),
- (c) any views of—
  - (i) the adult's nearest relative,
  - (ii) any primary carer, guardian or attorney of the adult, and
  - (iii) any other person who has an interest in the adult's well-being or property,

which are known to the public body or office-holder,

- (d) the importance of—

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*Status: This is the original version (as it was originally enacted).*

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- (i) the adult participating as fully as possible in the performance of the function, and
- (ii) providing the adult with such information and support as is necessary to enable the adult to so participate,
- (e) the importance of ensuring that the adult is not, without justification, treated less favourably than the way in which any other adult (not being an adult at risk) might be treated in a comparable situation, and
- (f) 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).

### **3 Adults at risk**

- (1) “Adults at risk” are adults who—
  - (a) are unable to safeguard their own well-being, property, rights or other interests,
  - (b) are at risk of harm, and
  - (c) 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.
- (2) An adult is at risk of harm for the purposes of subsection (1) if—
  - (a) another person’s conduct is causing (or is likely to cause) the adult to be harmed, or
  - (b) the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.