



Guidance on the Adult Support and Protection (Scotland) Act 2007

Responsible person: Maria Murray

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Summary

This guidance from the Society & College of Radiographers provides background information and advice on the implications of the Adult Support and Protection (Scotland) Act for radiographers and assistant practitioners working within NHS Scotland

Introduction

The Society & College of Radiographers believes it is important for radiographers and assistant practitioners working within NHS Scotland to familiarize themselves with the Adult Support and Protection (Scotland) Act.

This guidance from the Society & College of Radiographers provides background information and advice on the implications of this Act to imaging and radiotherapy services within the NHS in Scotland.

Background

The Adult Support and Protection (Scotland) Act 2007 was introduced to identify and protect adults at risk from harm. It requires Councils to set up "Adult Protection Committees" to review procedures and practices of specified public bodies (including Health Boards) relating to the safeguarding of adults at risk. If harm to adults at risk is suspected, this must be reported to the appropriate Local Authority (Council), who then has a legal duty to investigate the allegations and to compel action, if required, to stop harm.

The Act amends and repeals some sections of:

- the Mental Health (Care & Treatment) (Scotland) Act 2003;
- the Adults with Incapacity (Scotland) Act 2000;
- the Social Work (Scotland) Act 1968

The "public bodies" mentioned within the Act includes the Scottish Health Boards and obviously Health Board staff. It is therefore imperative that the whole of the radiography workforce understand and comply with this legislation when dealing with patients who may be "adults at risk".

Guidance to aid compliance of the Act

All members of the radiography workforce should familiarize themselves with the relevant definitions within the Act (see definitions at the end of this guidance)

The radiography workforce need to familiarise themselves with their own Health Board (Employer's) procedures pertaining to this Act, in particular the necessary reporting procedures.

If a radiographer or assistant practitioner suspects or knows that an adult is at risk of harm and believes that some form of action is required to protect that person from harm then, he/she is duty bound to report the facts and circumstances. The report should be made using the relevant Health Board's reporting mechanism. The Health Board is then duty bound (under subsection 3 of the Act) to subsequently report this to the relevant Local Authority (Council).

The Act also details further actions that are **not relevant** to the role of a radiographer or assistant practitioner:

- "investigations" (including visits, interviews, medical examinations and examinations of records);
- "assessment orders"(including an application to a Sheriff);
- "removal orders" (including sheriff agreements to remove the person at harm to a place of safety)
- "banning orders" (including the banning of persons from a place or from removing objects)

Relevant Definitions within the Act:

1. Adults at risk

People 16 years and over in Scotland 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 or a mental disorder are more vulnerable to be harmed than those adults who are not so affected.

An adult is at risk of harm 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.

2. Harm

Includes all harmful conduct including:

- (a) conduct which causes physical harm,
- (b) conduct which causes psychological harm (for example: by causing fear, alarm or distress),
- (c) unlawful conduct which appropriates or adversely affects property, rights or interests (for example: theft, fraud, embezzlement or extortion),
- (d) conduct which causes self-harm,

3. Council

As constituted under section 2 of the Local Government etc.

(Scotland) Act 1994 (c. 39)

http://www.opsi.gov.uk/acts/acts1994/ukpga_19940039_en_1; and references to a council in relation to any person known or believed to be an adult at risk are references to the council for the area which the person is for the time being in.

4. Relevant Health Board

In relation to any council, means any Health Board or Special Health Board constituted by order under section 2 of the National Health Service (Scotland) Act 1978 (c. 29) which exercises functions in relation to the council's area

5. Health professional

- (a) a doctor,
- (b) a nurse,
- (c) a midwife, or
- (d) any other type of individual described (by reference to skills, qualifications, experience or otherwise) by order made by the Scottish Ministers.

References

The Adult Support and Protection (Scotland) Act 2007,
http://www.opsi.gov.uk/legislation/scotland/acts2007/asp_20070010_en_1

The Mental Health (Care & Treatment) (Scotland) Act 2003,
http://www.opsi.gov.uk/legislation/scotland/acts2003/asp_20030013_en_1

The Adults with Incapacity (Scotland) Act 2000,
http://www.opsi.gov.uk/legislation/scotland/acts2000/asp_20000004_en_1

The Social Work (Scotland) Act 1968,
http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1968/cukpga_19680049_en_1

Maria Murray

Professional Officer (Scotland)

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MariaM@sor.org

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