

WBSAB



Safeguarding Policy

Adult Protection and Support Orders

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Content

1. Introduction
2. Policy Statement
3. Scope
4. Context
5. What are APSOs
6. Securing evidence to support the application
7. After the order is made
8. Review

Appendices

- A. Application form & List of people who may accompany the authorised officer.
- B. Flow chart for making an application for APSO

1. Introduction

The Social Services and Wellbeing Act became legislation on 6th April 2016. This safeguarding policy sets out each authority's duty and commitment to safeguard and promote the welfare of "adults at risk" and to ensure that effective practices are in place. It specifically focuses on Adult Protection and Support Orders (APSOs).

APSOs are to be used to enable an Authorised Officer, and any other person specified in the order, to speak to an adult suspected of being at risk of abuse or neglect in private, to establish whether the adult can make decisions freely, to assess whether the person is an adult at risk and to establish if any action should be taken.

Importantly, Adult Protection and Support Orders do not grant a power of removal. The principle is that the wishes of an "adult at risk" should be capable of being freely expressed and that they should be respected.

2. Policy Statement

Western Bay Safeguarding Board' equality lies at the heart of everything we do. Equality means understanding and tackling barriers so that everyone has a fair chance to fulfil their potential. The Board is committed to practices that protect children, young people and adults from harm regardless of age, gender, disability, racial heritage, religious belief, sexual orientation or any other protected characteristic as covered by the Equality Act 2010. The Safeguarding Boards' Business Plan details how equality is mainstreamed into the work of the authority in the delivery of services.

3. Scope

Whilst Social Services lead on dealing with enquires regarding concerns that individuals may be at risk of harm, everyone has a responsibility to safeguard an "Adult at Risk".

The Adult Protection and Support Order (Authorised Officer) (Wales) Regulations 2015 set restrictions on who can act as an authorised officer. www.legislation.gov.uk These Regulations provide for an officer of the local authority where the "adult at risk" resides to act as an authorised officer. Where this is not practical the authorised officer should be an officer from a local authority in the Safeguarding Board area and if this is not practical, an authorised officer must be an officer from a local authority in Wales.

Local authorities will need to be clear as to who has responsibility to act on behalf of the authority and be able to provide evidence of authorisation.

4. Context

This policy incorporates guidance from Welsh Government, Working Together to Safeguard People, Volume 4 Adult Protection and Support Orders. www.legislation.gov.uk

As each Council's commitment to Safeguarding, we work actively with agencies such as the Police, Abertawe Bro Morgannwg University Health Board, National Probation Service, third sector organisations and others. Each Board provides strategic leadership for the development of safeguarding policy, guidance and practice, consistent with best practice, Welsh and UK legislation and policy.

5. What are APSOs, who can apply for them and what can they be used for?

The purposes of an APSO are:

- to enable the authorised officer, and any other person accompanying the officer, to speak in private with a person suspected of being an adult at risk;
- to enable the authorised officer to ascertain whether that person is making decisions freely; and
- to enable the authorised officer properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) of the Social Services and Well-being (Wales) Act 2014 on what, if any, action should be taken.

APSOs are civil orders that can be sought by an authorised officer. An authorised officer must be a person authorised by a local authority for the purpose.

When an APSO is in force, the authorised officer, a police officer and other persons specified in the order may enter premises where an adult at risk is living for the purposes set out above.

APSOs can be made by a Justice of the Peace if satisfied that:

- the authorised officer has reasonable cause to suspect that a person is an adult at risk;
- it is necessary for the authorised officer to gain access to the person in order to properly assess whether the person is an adult at risk and to make a decision on what, if any, action should be taken;
- making an order is necessary in order to fulfil the purposes set out in section 127(2); and
- exercising the power of entry conferred by the order will not result in the person being at greater risk of abuse or neglect.

The duration of the APSO will be specified by a Justice of the Peace and will be time limited.

Role of the Authorised Officer

An authorised officer is the person that may apply to a Justice of the Peace for an APSO. The authorised officer should prepare the application form including the grounds for the application and the information required to be included in the order as set out at section 127(5) and (6) of the Act. The role includes liaison with the local authority legal service to make the application to the court and possible attendance to give evidence about the need in particular cases. There is an expectation that the Authorised Officer will have completed appropriate training commissioned by Welsh Government and have relevant experience to assist decision making.

Making decisions freely

Section 127(2)(b) states that one of the purposes of the APSO is to ensure that the adult suspected of being at risk is 'making decisions freely'. It follows that those involved in the execution of the APSO should ensure that they do not exercise undue influence. They must be aware that the adult suspected of being at risk may feel intimidated by the use of statutory powers and the presence of a number of strangers in their home, including a police constable. An advocate may be necessary to ensure that the person is able to challenge the views of practitioners.

When an APSO might be appropriate

It is anticipated that APSOs will rarely be sought. Applications will only be made when other less intrusive approaches have failed or are highly likely to fail.

The intended outcome is that applications to a Justice of the Peace are made only after all alternative actions to speak in private with the individual have been exhausted before resorting to the use of the legal process. Hopefully the existence of the power will be enough to ensure co-operation.

However, authorised officers do not have to prove the need for the APSO beyond all reasonable doubt. In part, the need for the APSO is because there is insufficient information about the adult suspected of being at risk.

The authorising officer will need to be able to demonstrate that the grounds under section 127(4) are made out, i.e.

- that there is reasonable cause to suspect that an adult is an adult at risk of abuse or neglect;

- that it is necessary for the authorised officer' to gain access to the person in order to properly assess whether the person is an adult at risk and to make a decision on what, if any, action should be taken;
- that making an order is necessary in order to fulfil the purposes set out in section 127(2) (as described above); and
- exercising the power of entry conferred by the order will not result in the person being at greater risk of abuse or neglect.

When an APSO may not be appropriate

APSOs are designed to enable vulnerable adults to express their views independently to an authorised officer where there is reason to believe they are at risk of abuse or neglect. However, an APSO may not be appropriate if:

- the granting of an APSO might leave the individual at greater risk;
- other less interventionist approaches have not been considered; and
- the use of a Domestic Violence Protection Order where the wrong-doer may be removed from the property may provide better protection for the victim.

6. Securing evidence to support an application

Authorised officers working alongside the relevant partners and other agencies including legal representation involved with individuals and their families, must co-operate and share information to both determine the need for, and support the application for, an APSO. A multi-agency meeting needs to clearly document the reason for considering the APSO and what has been tried e.g. less intrusive approaches so far.

Consideration must be given to issuing a written notice to the occupier of the premises and the adult suspected of being at risk that an application will be made for an APSO. A record of any such written or verbal notice should be kept and the information should be included in the APSO application, since it is open to a justice of the peace to attach to the order a condition requiring written notice to be given.

An APSO application can be made by a relevant authority to the magistrates' court within the appropriate local justice area, acting in its civil capacity. An application should, where it is practicable to do so, be made to the magistrates' court whose area includes the local authority area or police area responsible for the premises which are subject to the APSO.

The lead local authority officer in charge of the case should ensure that all the evidence and witnesses are available at the hearing, including any evidence in support of the need for the court to make an immediate APSO.

Section 127(6)(b) of the Act states that an APSO may include a condition providing for the authorised officer to be accompanied by another specified person. The application form includes a list of people who may accompany the authorised officer (appendix A). The list below is not exhaustive. Section 127(3) allows a police officer to attend so they are not listed below as an accompanying person. Their inclusion in an agreed order does not necessarily mean that they must accompany the authorised officer on a visit.

Authorised officers should consider whether an advocate should accompany them, and, if they consider an advocate should not be used, should record their reasons for that decision.

It will be for the court to then determine whether it is satisfied that there are sufficient grounds for making an APSO.

7. After the order is made

The local authority should agree common procedures for recording and monitoring both their successful and unsuccessful applications and for sharing with the Safeguarding Adult Board details including the number of applications made and granted.

The Authorised Officer will undertake the assessment and should include consideration of risk, health status, capacity and the ability of the person to protect him or herself. It will also need to include an assessment of the person's understanding of what is happening and what their wishes are. Appropriate weight must be given to their wishes bearing in mind a consideration of the possibility of undue influence.

It will be important to have developed an exit strategy so the authorised officer is able to clearly explain, both to the vulnerable person and to other occupants, what happens after the visit has taken place, any follow up actions that are proposed, and any sources of support that are available to them.

8. Review

This policy will be subject to review to ensure that it takes account of any changes to / or the introduction of new relevant regulation, guidance and legislation, and guidance and procedures adopted by the Disclosure and Barring Service.

Appendix A

Application form for an Adult Protection and Support Order

Application by complaint for Adult Protection and Support Order (Social Services and Well-being (Wales) Act 2014 s.127

Magistrates' Court (Code):

.....
Date:

.....
Subject of the Order:

.....
Address:

.....
.....
.....
.....

Applicant Authority:

.....
.....

And it is alleged:

(a) that.....is experiencing or is at risk of abuse or neglect, has needs for care or support and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it; and

(b) that an Adult Protection and Support Order is necessary for the authorised officer to gain access to the person named above, in order to properly to assess whether the person is an adult at risk and to make a decision on what, if any, action should be taken; and

(c) making an order is necessary to fulfil the purposes set out in section 127(2) of the Social Services and Well-being (Wales) Act 2014; and

(d) exercising the power of entry conferred by the order will not result in the person named above being at greater risk of abuse or neglect.

Short description of grounds for the application:

(a).....

(b).....

(c).....

(d).....

I believe it is appropriate for the following person(s) to accompany me when exercising the order (in accordance with s.127(6)(b) of the Act):

(a).....

(b).....

(c).....

(d).....

Do you wish this application to be heard:

i) without notice being given to the defendant; or

ii) with notice being given to the defendant.

If you wish the application to be heard without notice state reasons:

.....
.....
.....

Do you wish an order to be granted with or without a requirement to give notice to the occupier of the premises and to the person suspected of being an adult at risk?

State reasons:

.....
.....
.....

The order must specify the period for which it is in force. Are there any matters you wish to raise which are pertinent to this question?

.....
.....

Name of Applicant Authority:

.....

Address of Applicant Authority:

.....
.....

Who states that the particulars above are a true and accurate description of the grounds upon which this complaint is made:

.....

Who states that the particulars above are a true and accurate description of the grounds upon which this complaint is made:

.....
.....
.....

Taken before me
Justice of the Peace
[By order of the clerk of the court]

Please provide any additional information you consider pertinent to this application:

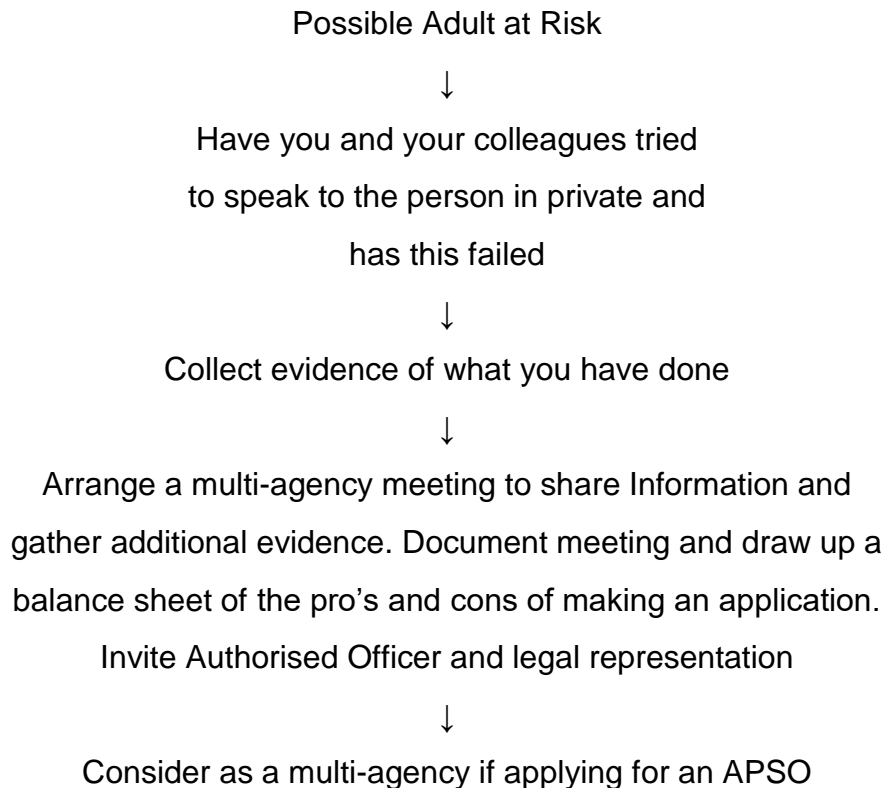
.....

.....
.....
Examples of such a person who might accompany an authorised officer:

- the key worker (social worker or health care worker);
- domiciliary care worker;
- advocate (statutory or non-statutory);
- family member or close friend;
- best interest assessor;
- general practitioner; or
- Approved Mental Health Professional under the Mental Health Act 1983.

Appendix B

Process Flow Chart



is appropriate



Consider if people need prior notification that an APSO

Is going to be made – document decision



Authorised officer to make the APSO application

Photocopy form for persons file

Log on Safeguarding database



Attend the court hearing

with supporting evidence, balance sheet and witnesses



If APSO is granted, enter date on data base

Notice may need to be given in writing



Written information must be given to the person

Including a copy of the Court Order

Also written information on complaints



Assessment Process

Risk management strategy – strengths based approach



Develop and exit strategy & ongoing support

If required



Record outcomes



Any unused APSO to be returned to the court

Glossary of Terms

Abuse	A violation of an individual's human and civil rights by another persons or persons which results in significant harm
AS	Adult Safeguarding
Adult Safeguarding Board	Parties making up the Board
Adult Safeguarding Co-ordinator	Lead officer for adult safeguarding in each local authority area
Complaints Manager	Complaints manager in each Local Authority responsible for dealing with complaints about adult social care
Designated Lead Manager (DLM)	Is the officer responsible for the overall management of an Adult Safeguarding case?
Investigation	Is a structured process to gather evidence to determine whether the allegation of abuse can be substantiated, which is agreed by the strategy partners and evidenced in a written investigation report back to the strategy partners?

Vulnerable Adult	Is a person over 18 years of age who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or serious exploitation.
Adult at Risk	<p>An adult at risk is</p> <ul style="list-style-type: none"> a) Experiencing or is at risk of abuse or neglect b) Has needs for care and support (whether or not the authority is meeting any of those needs), and c) As a result of those needs is unable to protect himself or herself against the abuse or neglect or risk of it. <p>This is in conjunction with the Social Services & Well-being (Wales) Act 2014.</p>
Western Bay Safeguarding Adults Board (WBSAB)	Parties making up the Board
Western Bay	Swansea, Neath Port Talbot, Bridgend, ABMU Health Board.
Significant Harm	Is defined as ill-treatment (including sexual abuse and forms of ill-treatment that are not physical); impairment of, or an avoidable deterioration in physical or mental health; and/or impairment of physical, emotional social or behavioural development.