**SOCIAL SERVICES AND WELL-BEING (WALES) ACT
2014**

**ACTIVITY**

## Adult protection and support orders (APSOs)

## Promoting well-being

1. How can an Adult Protection and Support Order promote well-being?
2. How can an Adult Protection and Support Order undermine well-being?

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| Suggested answer:Well-being in the Act includes protection from abuse and neglect. APSOs enable authorised officers to:* speak in private with a person suspected of being an adult at risk,
* ascertain whether that person is making decisions freely, and
* properly assess whether the person is an adult at risk and to make a decision as required by Section 126(2) on what, if any, action should be taken (127 (2)).

This means that the authorised officer can ensure that adults at risk have the opportunity to make choices about their own protection. Ability to communicate (freely) is fundamental to the purpose of an APSO. Therefore, it is essential to consider cultural, linguistic and communication needs at all points in the process. Practice guidance for registered social workers (Care Council for Wales, 2015) includes that they should: “*talk to people with due respect for their age, ethnicity, culture, sexual orientation, gender identity, religion or belief, understanding and needs”* (page 9).Social services and care providers are required to actively offer and deliver Welsh language services to the same standard as English language services. The Active Offer means moving the responsibility from the person to ask for services through the medium of Welsh, to the service which must ensure it provides them.Being capable and confident in accessing and using advocacy is also an essential part of being an authorised officer.It is important to note that APSOs contain the words protection and support. Protection, as an element of well-being, is balanced with other elements. Adults should be supported to promote their own well-being and to have their well-being promoted by others. The Mental Capacity Act (MCA) 2005 includes the important principle that adults have a right to make ‘unwise decisions’ i.e. to have preferences that others do not agree with.The Review of In Safe Hands (this policy is now being replaced with new guidance) and the consultation on the Social Services and Well-being (Wales) Act 2014 identified that people wanted there to be a way of entering premises to protect people. The review surveys found that:* “Any intervention to protect adults should be the least restrictive possible to their freedom” 92% agreed (58% strongly agreed)
* “Intervention to protect adults should occur where an adult LACKING CAPACITY could not be protected without intervention” 97% agreed (61% strongly agreed)
* “Intervention to protect adults should occur where an adult WITH CAPACITY could not be protected without intervention and is being unduly pressurised not to consent to protection” 92% agreed (33% strongly agreed)
* “An Adult WITH CAPACITY should have the right to refuse intervention even if such refusal puts them at risk of serious harm” 86% agreed (36% strongly agreed).

Additional informationThe Older People’s Commissioner for Wales published a report in 2015 (*Crimes against, and abuse of, older people in Wales – Access to support and justice: working together*), which highlights some important points that are very relevant to the use of APSOs:**Contact with the perpetrator*** The time when the alleged perpetrator was not with the victim provided opportunities for further disclosure from the victim and opportunities for practitioners to refine safety planning.

**Coercive control*** Police and social care agencies were aware that face-to-face contact was more effective than a telephone conversation in establishing whether a victim’s refusal to give consent was the result of undue influence by a perpetrator.

**Power to intervene*** Practitioners that understood the use of power, control and coercion by perpetrators towards their victims were supportive of developing far more interventionist approaches to reduce the risk for victims of domestic abuse.

**Client disengagement*** There was a view that more strategies needed to be developed to help victims feel safe so they were in a position to disclose information about the abuse that they were experiencing.

There is a risk that an APSO could be used when it is not the least restrictive alternative. It could be used when all other options have not been considered. The Minister for Health and Social Services makes the point in his memorandum that:*“The intended outcome is that applications to a Justice of the Peace for an Adult Protection and Support Order 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.”*The APSO guidance talks about the need for the use of an APSO not to undermine people’s control:*1.18 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 constable. An advocate may be necessary to ensure that the person is able to challenge the views of practitioners.* When orders were introduced in Scotland there were concerns about intrusion and compulsion. However, early evidence suggested that autonomy and protection have been balanced, particularly through principles of least restrictive alternative and proportional intervention (Preston-Shoot and Cornish, 2014). |