



# ADULT PROTECTION & SUPPORT ORDERS PRACTICE GUIDE

North Wales Safeguarding Adults Board	Date: December 2020 Updated: January 2022	Status: Approved P & P Group
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## 1.0. THE PURPOSE AND SCOPE OF PRACTICE GUIDE

1.1. *Section 127, Part 7 of the Social Services and Well-Being Wales Act (2014)* (SSWBA) introduces Adult Protection and Support Orders (APSOs). These Orders provide a legislative framework to permit an Authorised Officer of the Local Authority to make an application to the magistrate's Court to;

- Enable an Authorised Officer, and any other person accompanying the officer, to speak in private with a person suspected of being an adult at risk;
- Enable an Authorised Officer to ascertain whether that person is making decisions freely; and
- Enable an 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.

**It is important that all staff should be aware that an APSO contains no power to remove the suspected adult at risk or any suspected perpetrator from their property.**

1.2. Full Details of the Welsh Government *Statutory Guidance for Adult Protection Support Orders, Working Together to safeguard people, Volume 4*, can be found via the hyperlink below

<http://gov.wales/docs/dhss/publications/160909safeguarden.pdf>

1.3. The Adult Protection and Support Order (Authorised Officer) (Wales) Regulations 2015 set restrictions on who can act as an Authorised Officer. 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 can be an officer from any local authority in Wales. 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.

1.4. The North Wales Safeguarding Adults Board region has the following Authorised Officers;

**Anglesey:** Sioned Williams (legal only)  
[SionedWilliams2@ynysmon.gov.uk](mailto:SionedWilliams2@ynysmon.gov.uk):  
Olwena Davey  
[OlwenaDavey@ynysmon.gov.uk](mailto:OlwenaDavey@ynysmon.gov.uk)

**Conwy:** Adult Safeguarding Lead.

**Denbighshire:** Alaw Pierce - Service Manager Adult Safeguarding  
Nerys Tompsett - Team Manager Adult Safeguarding

<b>Flintshire:</b>	Mark A Jones: MARK.JONES6@wales.nhs.uk Christopher Phillips: <a href="mailto:christopher.phillips@flintshire.gov.uk">christopher.phillips@flintshire.gov.uk</a>
<b>Gwynedd:</b>	Helen Fon Owen (Senior manager LD services) Erin Wyn (solicitor for Adults Services) Angharad Jones (Social worker in Adults team) Ruth Evans (Social worker in Adults Team)
<b>Wrexham:</b>	Adult Safeguarding Team Manager 01978 292910 or 01978 298208 Email: <a href="mailto:ast@wrexham.gov.uk">ast@wrexham.gov.uk</a>

- 1.5. The purpose of this practice guide is to set out the arrangements for the operational delivery of the Authorised Officer role, the application process and how partner agencies should work together to ensure that best practice is achieved.

## **2.0. WHEN AN APSO MIGHT BE APPROPRIATE**

- 2.1. 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 the Court 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. However, Authorised Officers do not have to prove the need for the APSO beyond all reasonable doubt: The Order is a civil order and the Magistrate will make on a decision on the balance of probability. In part, the need for the APSO is because there is insufficient information about the adult suspected of being at risk.
- 2.2. The Authorised 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 office' 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
  - that exercising the power of entry conferred by the order will not result in the person being at greater risk of abuse or neglect.

## **3.0. WHEN AN APSO MIGHT NOT BE APPROPRIATE**

- 3.1. 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 intrusive approaches have not been considered

3.2. Other legal options should also be considered, as they may be more appropriate and more effective. These could include:

- application for a Domestic Violence Protection Notice and Order by Police which enables the suspected perpetrator to be removed from the property
- an urgent application to the Court of Protection under Section 16, mental Capacity Act, 2005
- an application under S135(1), Mental Health Act, 1983 by an Approved Mental Health Professional (AMHP), which would allow the suspected adult at risk to be removed from the property to a place of safety for further assessment of their needs.

#### **4.0. REQUEST FOR APSO APPLICATION TO BE CONSIDERED:**

4.1. ***Working Together to Safeguard People Volume 4* should be read in conjunction with this protocol. This protocol specifically addresses the practicalities for APSO applications for suspected adults at risk who live in the North Wales Safeguarding Board area and does not replace the above guidance.**

4.2. It is expected that enquiries regarding the need for an application for an APSO to be made will only be generated via Safeguarding reports under Section 128 of the SSWBA. If identified during the Section 126 enquiry (SSWBA) that an application for an APSO may be required, the Lead Practitioner in the relevant will discuss the case with the relevant lead officer within their organisation (if they are not available discussion will need to be held with an alternative Authorised Officer, preferably from the Authority where the suspected Adult at Risk is resident, but, if this is not possible, from any Authorised Officer in North Wales). The lead practitioner will identify an appropriate Authorised Officer to undertake this piece of work.

4.3. In the first instance the appointed Authorised Officer will attend the strategy meeting, potentially accompanied by a legal advisor for the Authority where the suspected adult at risk resides, to gather all relevant information in order to assess whether an application needs to be made. It is essential that the police are involved throughout the consideration of the application as their involvement will likely be necessary to support the execution of the APSO. If a strategy discussion/meeting has previously been held then this will need to be re-convened in order to facilitate the attendance of the Authorised Officer, legal representative and police.

4.4. In the strategy meeting, the Authorised Officer will ensure that all actions have been undertaken in order to engage with the Adult at Risk: this is essential in providing evidence to the Court should an application be made, as the Officer will need to demonstrate that alternatives to an APSO have been fully explored. The APSO is an Order of last resort. The Authorised Officer may make further recommendations prior to making the application and will advise of these throughout the safeguarding process.

4.5. If the Authorised Officer agrees that an APSO application is necessary and proportionate will work with the appropriate legal advisor to complete and submit the

application to the Court and will do so following the step by step approach within the guidance:

- Collect Evidence
- Consider which accompanying people to request be named in the Order. What is known about the suspected adult at risk's advocacy or communication needs should be taken into account specifically.
- Consider how many contacts should be requested and the timeframe for those contacts to take place
- Consider whether a request for an ex parte (without notice) application should be requested
- Complete and submit the application to the Magistrates Court (including arrangements for payment of the Court fee)
- The hearing
- Immediate post APSO risk management planning and support

4.6. The APSO officer will ensure that they plan effectively for the Order to be executed, including planning an exit strategy which will identify appropriate support for the adult at risk: this is essential to ensure the ongoing protection, care and support for the individual. This will need to be planned effectively within the strategy meeting process and will need to be evidenced to the Court in the application.

4.7. If concerns are expressed in relation to the decision making process these will be referred as causes for concerns to adult quality assurance sub group.

4.8. In order for the application to be heard in Court and during the execution of the Order, the Authorised Officer will require identification to provide to the adult at risk and provide the reasons why they are attending (direct guidance of this is provided within the Volume 4). Support from the police will almost certainly be needed during the execution of the Order to ensure that the aims can be met without placing the adult at risk, any other occupants of the dwelling or the Authorised Officer at any risk

## **5.0. EXECUTING THE APSO**

5.1. When an APSO has been made, the Authorised Officer, a police officer and any other persons specified in the Order may enter premises, using reasonable force if necessary, where an adult at risk is living in order to speak in private with the suspected adult at risk. Police are empowered to intervene should any person obstruct this private conversation.

5.2. The Authorised Officer should explain to the suspected adult at risk and to any other persons present in the property that the Order has been granted and have copies of the Order to give to the suspected adult at risk.

5.3. The Authorised Officer will lead the conversation and this 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.

- 5.4. 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.
- 5.5. 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.

## **6.0. ACTION FOLLOWING AN APSO APPLICATION**

- 6.1. Following the application and subsequent execution of the warrant it is essential that a reconvened strategy meeting is undertaken to share information and plan effectively. However, if the Adult at Risk refuses to share information and does not wish for the involvement of protective services, there are no concerns in relation to their mental capacity to make this decision or that, whilst mentally capacitated, the Adult at Risk is subject to coercive control, and there are no concerns for the safety of other Adults at Risk, children or the public, the Authorised Officer will feed this back to the Lead Practitioner/Safeguarding Officer.
- 6.2. The above actions will be completed directly following execution of the Order.
- 6.3. The ASPO officer will provide a summary to the relevant Local Delivery sub group of the North Wales Safeguarding Adults Board in order to share learning and will arrange a briefing session for other Authorised Officers.

## 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 Section 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;
- professional advocate;
- family member or close friend;
- best interest assessor;
- general practitioner; or
- Approved Mental Health Professional under the Mental Health Act 1983.

## APPENDIX B FLOW CHART

