

# KEEPING ADULTS SAFE FROM MISTREATMENT: AN INDEPENDENT ADVOCACY PERSPECTIVE

*FINAL REPORT*

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# EXECUTIVE SUMMARY

## *INTRODUCTION*

This report summarises findings from a research project investigating independent advocacy perspectives on work to keep adults safe from mistreatment in Scotland. Twenty independent advocacy managers and staff were interviewed, either singly or in groups. The participants represented six independent advocacy organisations and were involved in adult support and protection (ASP) work across nine local authority areas. The study begins to map some independent advocacy perspectives on:

- The processes and outcomes of statutory ASP work;
- The impact of evolving ASP policies and practices on independent advocacy organisations and their work to protect adults from mistreatment and safeguard their rights.

A further aim of the research was to explore these issues with people who use independent advocacy services. In the event, this aim proved difficult to progress within the constraints of this study.

## *FINDINGS*

No participant felt negatively about the Adult Support and Protection (Scotland) Act 2007 (the ASPSA) and related policy developments in principle. However, varying experiences were related of implementation on the ground:

### *Entering the ASP system*

- Participants in several local authority areas reported good relationships and responsiveness on the part of local council officers responsible for receiving ASP referrals. In other areas, relationships were less positive, and in one area, ASP referral procedures were felt to be obscure.
- Concerns about the consistency of decision-making in relation to ASP referrals and the ASPSA three-point criteria were raised in five of the ten interviews. Generally, participants felt that decisions *should* be consistent, though there were different views on how to achieve this, and/or how easy this would be.
- There were particular concerns about a perceived failure to progress very many referrals at all under ASP in relation to one local authority in the past, and a second local authority on an ongoing basis.
- Participants valued referral systems that promised some degree of objective scrutiny. Decision-making about a referral by the adult's own care manager or usual social work team, for instance, was described as inappropriate by several participants. Concerns were also raised where decisions were felt to have been influenced by resource considerations and/or

agency convenience. Again, this was raised more frequently as an issue in relation to certain local authority areas.

- Some participants described the diversion of concerns away from ASP processes as potentially a good thing, and praised statutory services that were able to respond flexibly to certain issues in a range of low-key ways. Other participants reported immense frustration with their own experiences of diversion away from ASP processes. In part this reflected different expectations of ASP processes amongst these participants. However, it also appeared to be related to their different working contexts. That is, participants who reported satisfaction with some diversions away from ASP processes tended also to have confidence that ASP would be called on if required. They tended to report that care and support services in their local authority areas were generally of high quality and underpinned by person-centred principles. They and their advocacy partners tended to have been informed of decisions about diversion away from ASP.

#### *Investigations, meetings and case conferences*

- There was a widely held view that ASP processes promote positive multi-agency information-sharing and communication. Though presented by some as unadulterated praise, a minority of participants placed this observation in the context of other, more worrying trends. Specifically, they described the absence of more routine reviews of support plans as a contributory factor in the deterioration of some harmful situations, or they noted positive communication during the formal ASP process but a marked decline thereafter.
- Participants in one local authority felt that they and their clients were almost completely excluded from all ASP processes. Participants elsewhere reported a range of views about statutory workers' support for the adult's participation, including some highly positive experiences.
- Factors felt to promote the participation of adults at risk echo the findings of other research, e.g.
  - Limiting the size of meetings;
  - Avoiding formal language;
  - Using familiar settings;
  - Allowing time and space before, during and after meetings for emotional support, and to promote and check understanding;
  - The importance of a sensitive, skilled chair.

#### *Balancing rights and risks*

- Participants appreciated the importance of a statutory "duty of care". They felt that the role of independent advocacy and the role of statutory ASP could complement each other in productive ways, at least in principle. The majority had some examples of this happening in practice.
- Five of the six participating agencies had some experience of situations that they felt warranted ASP intervention, but which the statutory services had been slow or reluctant to address under ASP.
- A number of participants gave examples of ASP processes that had gone forward, in which they felt that rights and risks had not been properly weighed up. The adults concerned were

reported to have experienced these ASP processes negatively. Situations in which the adult concerned was making choices that were considered to be risky featured particularly heavily amongst these examples.

- Compromise, creativity and flexibility were suggested to be necessary to good ASP work.

#### *Outcomes and endings*

- Some participants reported predominantly positive outcomes of ASP interventions. Others reported predominantly negative outcomes. Most reported a mixture of the two.
- Situations of financial abuse, in which the adult themselves wanted help, were particularly common amongst examples of positive outcomes.
- Situations in which the adult's own choices were considered to be risky, and in which they were resisting ASP intervention, were particularly common amongst examples of negative outcomes.
- Reasons suggested for negative outcomes included:
  - Absence of resources to respond appropriately;
  - Lack of creative thinking about the use of available resources;
  - Front-line workers not having sufficient authority to respond creatively;
  - Risk aversion amongst front-line workers, as a consequence of their own working contexts;
  - Individuals falling into the "cracks and gaps" around the three-point test;
  - Non-engagement of the individual in the ASP process.

#### *Involvement of independent advocacy*

- Participants described a range of contributions that independent advocacy can make to ASP. The ability to make these contributions in practice was suggested to be dependent on:
  - Awareness and understanding of the advocacy role amongst the statutory services;
  - Rates of referral, which were felt to be lower than ideal by a number of participants across all organizations;
  - Timely referral, so that independent advocates can get to know an individual and their views in advance of formal meetings;
  - Good information-sharing on an ongoing basis, where the individual has consented to advocacy involvement;
  - Good relationships and support at strategic level.

#### *Overall impact of the ASPSA*

- Fears that the ASPSA would engender more risk-averse practice amongst the statutory services were not borne out by the experiences of these participants. Rather, the ASPSA was characterised as a "tool" that was being used in more or less helpful ways, depending on the existing quality of care/support services and workers' existing approaches towards risk.
- Many participants argued that, for people to be properly supported and protected, change needs to extend beyond the boundaries of the ASPSA:
  - There was argued to be a need for better multi-agency collaboration and strengthened supports for individuals where the ASPSA three-point criteria are *not* met.

- Attitudes towards disabled people, older people and people with mental health problems in society at large were also argued to be in need of change.
- Views about the impacts of the ASPSA on independent advocacy were mixed:
  - Most participants felt that incorporation into legislative frameworks such as ASP has not fundamentally changed the nature of independent advocacy. However, sufficient resources need to be forthcoming to meet increased demand.
  - A minority of participants reported a more fundamental impact of incorporation into legislative frameworks. One participant felt that the Mental Health (Care and Treatment) (Scotland) Act 2003 in particular, but also the ASPSA, had helped to improve independent advocacy services. Participants in another organisation felt that the model of advocacy commissioned locally to respond to ASP situations departed significantly from best practice. They characterised the requirements associated with statutory funding as a barrier to person-centred, value-driven models of independent advocacy in their local context.

## *CONCLUSIONS*

- Independent advocacy organisations have rich insights into the ASP experiences of adults at risk. Participants reported that some multi-agency ASP partnerships were engaging closely with this source of feedback. Other partnerships might engage more closely and capitalise on these insights more.
- Participants supported the ASPSA in principle. However, there were significant variations in experience of implementation in practice, with some local authority areas and some local social work and/or multi-agency teams portrayed as more positive environments for advocacy and ASP than others.
- Participants considered the role of independent advocacy and the role of statutory ASP services to be compatible in principle. They wanted to work in partnership with other agencies, in the spirit of the ASPSA, within the proper boundaries of their role.
- A number of factors were reported to influence the ability of independent advocacy to contribute fully to ASP work in practice. Some of the barriers reported require to be addressed at local level whilst others are common problems that might benefit from broader-scale discussion. Lower than expected rates of referral to advocacy, and referrals made too late in the ASP process, were the commonest barriers raised.
- ASP processes and outcomes cannot be evaluated in isolation. Attention is needed to the broader service and societal context that can endanger people or help to keep them safe. Attention is also needed to those excluded by the ASP criteria.
- Research access to adults at risk themselves is challenging for practical and ethical reasons. This is an issue for ongoing exploration and debate. There may be potential for links between local-level service evaluation initiatives and larger scale research activity.

# 1 INTRODUCTION

This report summarises findings from a research project investigating independent advocacy perspectives on work to keep adults safe from mistreatment in Scotland. It explores how a sample of independent advocacy workers view their own role in the safeguarding of adults, and the interface of this role with the role of statutory agencies, in particular since the implementation of the Adult Support and Protection (Scotland) Act 2007.

Independent advocacy services grew out of a grass-roots, user-led movement to give voice to people who can often go unheard, for instance people with learning difficulties or mental health problems. Independent advocacy supports people to speak up for themselves, claim their rights and participate in decisions that affect their lives. As part of these objectives, independent advocacy has long seen itself as having a role in the protection of adults from mistreatment in the broadest sense (Scottish Independent Advocacy Alliance 2013b, Scottish Independent Advocacy Alliance 2014).

The protection of adults from mistreatment has also become a key concern of social work and related public bodies, in particular since the implementation of the Adult Support and Protection (Scotland) Act 2007 (the ASPSA). “Adult support and protection” (ASP) activity in this sense concerns a stipulated range of “harms” or abuses that local authorities are required to investigate and work to alleviate (Scottish Government 2008). Like related Scottish legislation, the ASPSA is underpinned by guiding principles informed by international human rights law (Mackay 2010, Patrick, Smith 2009).

Views about the ASPSA were mixed at the time of its introduction. Some argued that pre-existing safeguards were not sufficient to protect the most vulnerable people in our communities, and that the legislation was necessary to address this gap (Stewart 2012). Some objections were raised to the ASPSA’s assumptions about vulnerability (Sherwood-Johnson 2013, Scottish Government 2009), and some fears were expressed about its potential to engender risk-averse and disempowering practice (Scottish Government 2009, Stewart 2012). There is now a small but developing body of evidence about ASP activity that is felt by those undertaking and/or experiencing it to appropriately balance rights and risks (Mackay et al. 2011, Preston-Shoot, Cornish 2014). Development work and research into the best ways to achieve this continues, however. In particular, some such work has focused on ways to keep the individual(s) concerned at the centre of the ASP process (Altrum Risk Research Team 2011, Improving ASP Participation Project Team 2013, Scottish Government 2014, Sherwood-Johnson et al. 2013).

Previous studies indicate that affected adults often greatly value the contribution of independent advocacy when they are subject to formal ASP procedures (Scottish Government 2014, Altrum Risk Research Team 2011). However, independent advocacy perspectives on ASP processes and

outcomes have been under-researched to date. It is also not clear from the existing research base how increasing demand for such involvement is impacting on the work of independent advocacy agencies and their own individual and collective work with adults who may be at risk. We know from related spheres and settings that, where statutory agencies have embraced the role of independent advocacy, this can both increase the availability and change the nature of these services in line with the requirements of commissioners. For instance, a previous escalation in statutory demand for independent advocacy following the implementation of the Mental Health (Care and Treatment) (Scotland) Act 2003 greatly increased the funding and accessibility of independent advocacy services across Scotland, on the one hand, but has been argued to risk side-lining preventative and community-level advocacy in favour of individual crisis case-work, on the other (Scottish Independent Advocacy Alliance 2013b). The ASP legislation led to further increases in demand from statutory agencies and some changes to the Service-Level Agreements between independent advocacy organisations and local authorities (Scottish Independent Advocacy Alliance 2013a). This might similarly be expected to have impacted on the context and nature of independent advocacy services to adults in Scotland.

In light of the above, this study set out to begin to map some independent advocacy perspectives on:

- The processes and outcomes of statutory ASP work;
- The impact of evolving ASP policies and practices on independent advocacy organisations and their work to protect adults from mistreatment and safeguard their rights.

A further aim of the research was to explore these issues with people who use independent advocacy services. In the event, this aim proved difficult to progress within the constraints of this specific study. This issue is discussed in Chapter Four.

The remainder of the report is organised as follows. Chapter Two describes how the research was conducted. In particular, it outlines the characteristics and limitations of the sample of independent advocacy workers who participated. Chapter Three outlines the findings. It sets out, compares and contrasts participants' views about ASP in their respective local authority areas, and the impacts of statutory ASP developments on their work and their agencies. Chapter Four considers the implications of these findings for ASP practice and policy. It also discusses some further issues for consideration and follow-up research.

## 2 METHOD

The study used qualitative, semi-structured interviews with independent advocacy workers to investigate the following research questions:

- What are the views of independent advocacy workers about the processes and outcomes of statutory ASP work since the implementation of the Adult Support and Protection (Scotland) Act 2007?
- What kinds of role is independent advocacy undertaking in statutory ASP work, and with what perceived effects?
- To what degree, and in what ways, has the rise of statutory ASP impacted on independent advocacy organisations and their work? What are the implications for efforts to safeguard adults from mistreatment in the broadest sense?
- What further developments in legislation, policy and/or practice do independent advocacy workers consider to be required, in order to best address the problem of the mistreatment of adults?

### 2.1 PARTICIPANTS

Workers from six independent advocacy organisations participated in the study. Organisations were approached with a view to securing a diverse sample in terms of rural/urban location, populations served and models of advocacy employed. All those who responded within the time-frame of the study were included in the sample. Where an organisation did not respond an alternative was contacted until the target of six participating organisations was reached.

Some of the participating organisations offered independent advocacy services within a single local authority area, whilst others offered services spanning more than one area. Between them, participants were working across nine different local authority areas. Some participants were interviewed singly and others were interviewed in groups. A total of ten interviews were conducted with twenty participants overall. Some participants were managers; others were advocacy workers specialising in a range of areas including mental health, learning disability, work with carers and ASP work specifically.

The sample cannot be assumed to be representative of other independent advocacy organisations and independent advocacy workers across Scotland. However, those who participated held a range of views, reflecting in part the diverse range of settings and work contexts from which they were drawn. This range of views forms a helpful starting point for discussion, and for comparison over time with experiences and developments in other settings and contexts.

## 2.2 ETHICS

Participants discussed their ASP work without sharing individuals' names or personal details. They took part on the understanding that neither they, their agencies nor users of their services would be identified in reports of the study. Accordingly, the following chapter identifies participants by interview number only, and by a participant code where more than one participant was interviewed together. Some identifying details have also been removed or changed where experiences and situations are described in this report.

The study was approved by the Ethics Committee of the School of Applied Social Science, University of Stirling.

## 3 FINDINGS

This chapter discusses participants' perspectives on ASP developments over recent years, and their experiences of ASP work in their local areas. The chapter is divided into four main sections. Section 3.1 sets the overarching context for the detail of the findings. It outlines the range of participants' views about the aspirations of the ASPSA, on the one hand, and its implementation in practice, on the other. Sections 3.2 and 3.3 expand on participants' experiences of ASP work on the ground. Section 3.2 considers helpful and less helpful experiences of ASP processes, from the perspective of the impact on the adult at risk; section 3.3 considers facilitators and barriers encountered by independent advocates in fulfilling their own functions. Section 3.4 summarises and expands on the perceived impacts of ASP developments in less individualised terms. First, it considers impacts on support services to adults in general. Second, it considers impacts on independent advocacy organisations in particular, and their own work to safeguard adults and uphold their rights.

### 3.1 VIEWS ABOUT ASP DEVELOPMENTS: IN PRINCIPLE AND PRACTICE

Several participants noted how much they had welcomed the introduction of the ASPSA, and the heightened attention to ASP issues that it brought about.

*"I think there does have to be something there. Because when I think before, I supported an elderly gentleman before the Adult Support and Protection Act came out. And when the Adult Support and Protection Act came out, I thought, Oh, that is fantastic. We really need something like that. I wished it'd been there for the gentleman I was supporting."* [Interview 4]

*"It's necessary sometimes to protect people to that level. ...It is necessary legislation."* [Interview 3, Participant A]

Amongst those expressing these positive views was one participant who had changed her mind about the ASPSA over time:

*"When we first heard about the adult protection legislation, we all thought, Oh! Shock horror, that's appalling! You know. How dare people, how dare the state stick its nose in, and what's it got to do with them. You know, there are other ways of dealing with things. As it bedded in, as we learned more about it, as we've worked with people who... It's probably a really, really good piece of legislation, if it's interpreted and enacted properly."* [Interview 9]

Whilst other participants expressed no strong opinions about the ASPSA and associated developments in policy and procedures in and of themselves, or had no experience prior to their introduction with which to compare the present system, there was no indication from any participant that these developments had been negative ones, at least not in principle.

Participants' views about ASP developments diverged more markedly as they began to reflect on the ways that the ASPSA and associated policies and procedures were being translated into practice on the ground. Some participants viewed their own objectives and roles in ASP work, and the objectives, priorities and attitudes of statutory ASP workers in their local authority area(s) as complementary and compatible. Joint working to achieve shared aims was felt to be achievable all or most of the time.

*"[Independent advocacy] supports them. It validates their decision-making processes if there's advocacy in there. It's an additional safeguard. It's a reminder to be person-centred. It's a reminder to be, or to consider the least restrictive options. It safeguards them, as much as safeguarding the individual they're working with."* [Interview 9]

A majority of participants described some encouraging experiences of compatibility in practice and some less helpful tensions between the roles of independent advocates and statutory agencies in their ASP work. At the far end of this spectrum, meanwhile, a minority of participants portrayed their work in the field of ASP as a constant battle against the statutory ASP services, whose objectives and priorities in practice they explicitly rejected.

*"It's more about, more about the process than the person. I think the person is often lost in it all."* [Interview 5, Participant C]

*"So, it [the ASPSA] has potential. But in practice I think it actually leaves us feeling quite cold about the whole thing. And quite frustrated. So I think there's real scope for it to actually have teeth. And to allow advocates to, to really be advocates. But in practice it's very difficult to do that."* [Interview 5, Participant B]

Positions along this spectrum were not randomly distributed. They seemed rather to bear at least some relationship to variables at local authority level, with some local authority areas and some local social work and/or multi-agency teams portrayed as more positive environments for advocacy and ASP than others. The type of harm involved also appeared to bear some relationship to more or less positive experiences of ASP work, as explored in more detail below.

The following sections discuss the factors most commonly emerging from participants' accounts as having an impact on a) the adult at risk's experience of ASP processes and interventions; and b) the ability of independent advocacy workers to fulfil their roles in ASP to the best of their ability.

### 3.2 AFFECTED ADULTS' EXPERIENCES OF ASP PROCESSES AND OUTCOMES

This section gives an overview of helpful and less helpful aspects of interagency ASP activity, as perceived by participants. It discusses factors thought to have an impact on the outcomes of ASP processes, as well as on affected individuals' experiences of involvement in these processes. The specific contribution of advocacy is considered in more depth in Section 3.3.

### 3.2.1 ENTERING THE ASP SYSTEM

The subject of initial access to the ASP system arose as a significant issue in the majority of interviews. Those who spoke positively about processes and decisions in these early stages had experience of clear referral procedures, known points of contact and a willingness on the part of council workers to consider and discuss referrers' concerns.

*"I mean we've got a good working relationship with the ASP network in [area]. ...And our relationship with them as, as they have with everyone, is that: please report your concerns. Even if they're of a minor nature. Because obviously if there's lots of concerns of a minor nature about someone, that becomes something of concern. So I think they always take these things forward."* [Interview 8; Participant A]

*"A lot of the time, people just phone the [ASP] unit for advice. You know, what do you think about this? Do you think it's worth taking it to a team leader? You know, and they're really good at giving advice. And there'll be times where we might think it's an adult protection issue, but actually, because the person doesn't necessarily meet the test, Adult Protection will say, well actually, no, maybe you should just take it to one of the specialist teams or you know, older people's social work or, you know, whatever. ...You know, they're quite – quite supportive."* [Interview 9]

Some participants had seen changes in processes for handling referrals and/or in application of the ASPSA three-point criteria over time, which they perceived to have been positive developments. For instance, one participant noted how much better the multiagency ASP partners had become at screening out inappropriate ASP referrals and progressing appropriate ones in the specific context of an early influx of referrals from the police. On the other hand, participants in one local authority area had seen a re-structuring of ASP services locally that they felt had made ASP referral procedures much less transparent, to the extent that they were unsure what current protocols for making a referral were. These participants also felt that valid concerns about potential harm to adults at risk were frequently not addressed appropriately under ASP procedures in their local area.

In presenting these various views about entry to the ASP system, participants explored and situated themselves in relation to four major underpinning themes: first, expectations that processes of entry to the ASP system should be *consistent*; second, expectations that these processes should be *disinterested*; third, expectations about the *interface* of these processes with wider care and support services to adults; and fourth, expectations about *communication* when decisions about ASP referrals are made. The following subsections consider these four themes in turn.

### 3.2.1.1 Consistency

The issue of inconsistent decision-making in relation to application of the ASPSA criteria was raised in five of the ten interviews. For instance, one participant had referred two cases of self-neglect in the context of alcohol abuse to the local ASP team, and could see no clear reason why one had been judged to meet ASPSA criteria whilst the other had not. On a broader scale, one group of participants who worked across several local authority areas saw marked differences in the proportion of referrals taken forward across each of these areas. They were particularly concerned about the one authority thought to have been excessively reluctant to initiate ASP procedures at all until very recently:

*“We’re talking about legislation that’s been in place for half a dozen years now, you know? Nothing got by them. Nothing. Nothing was investigated.”* [Interview 2; Participant C]

Whilst the implication across examples like these was that decision-making *should* be consistent, different explanations were offered for inconsistencies in practice. The participant with the two alcohol abuse concerns, for instance, contrasted application of the ASPSA criteria with the diagnosis of a broken bone, implying that the former is inherently more of an interpretive process. For participants in Interview 2, on the other hand, a significant part of the problem was understanding of the ASP criteria amongst certain council officers, in situations that they themselves disputed should be open to interpretation.

*“I mean I think the legislation’s very clear. However, there can be some dubiety about the way that you interpret it. But it is very clear that if you have a disability, and he has a learning disability, and you’re unable to keep yourself safe, and he’s clearly unable to keep your... And you are at risk of harm. Not actually being harmed, but at risk of harm. Then that’s the three-point test met.”* [Interview 2; Participant C]

The distinction between currently being harmed, and being *at risk* of harm, was the key point of contention in more than one example raised in this interview. Participants in Interview 2 also described a situation in which the criterion of being “at risk of harm” was not considered by the council officer to be met because the individual concerned had assured social workers repeatedly that he was not being abused. However, because they considered there to be other evidence to the contrary, because the individual concerned felt great loyalty towards the alleged perpetrator, and because many of the discussions and denials of abuse had taken place in the alleged perpetrator’s presence, these participants felt that this criterion had not been applied correctly in this instance either.

The fact that a single council officer was sometimes responsible for decisions about the application of the ASP criteria was a source of particular discomfort for some of the participants. Another participant in a local authority where screening of ASP referrals is the responsibility of local social work teams described the relocation of this responsibility to a central, specialist unit as the single development most likely to improve ASP practice in this council area. She characterised some local teams as better than others at progressing ASP concerns, resulting in the need for advocates to

pursue some teams more actively than others when they felt that an issue needed taking forward. Locating this decision-making with a specialist team would, she felt, lead to more consistent practice.

### **3.2.1.2 Independence**

Participants largely also shared the expectation that ASP referrals should be subject to some degree of “independent” or disinterested scrutiny. This was a further reason for valuing certain types of referral systems over certain others. For instance, one group of participants valued the way that their local ASP contacts were specialist workers, because this degree of “independence” would be sacrificed if ASP officers were also functioning as care managers. For similar reasons, another participant praised a system whereby ASP referrals are screened and inquiries and investigations taken forward by social workers from a mix of different teams on a duty basis:

*“So three years ago, if it was somebody with a learning disability that the social work department got an ASP referral for, they would automatically send it to a learning disability team to become the investigating team. Which sort of tends, we thought, you know, it wasn’t terribly good in many ways because quite often if someone’s been working with you for a long time, they don’t really recognise that they’re, the level of harm. It’s, ooh – they’re always doing that, or that’s always happening to them. They’re quite often closed at the inquiry stage, it never went beyond that. Whereas someone from a mental health team investigating it might view it completely differently, and it goes to case conference.”*  
[Interview 1]

In contrast, participants in a further council area characterised their local arrangements for responding to referrals as “incestuous”, and felt strongly that they did not offer the level of disinterested scrutiny appropriate to the spirit of ASP.

*“You know, just feels that because a number of people wear different hats, and are based in the same office, and just along the corridor from so-and-so, there’s... Now this can’t be evidenced, you know. But it feels like there’s an awful lot of that fag-packet planning, or, hang on, well I’ve got so-and-so; we could just... Well, that will be fine. Right, well there’s no need to... You know.”* [Interview 5; Participant B]

Concerns raised amongst this group of participants even included situations in which investigating officers were responsible for responding to complaints against themselves.

Notwithstanding the structures in place, particular discomfort was expressed where factors linked to agency resources and/or to agency convenience were felt to have played a role in decision-making about ASP referrals. For instance, Interviewee 1 described one situation in which a man with learning difficulties had been defrauded of significant sums of money by a relative. This was in the context of professional safeguards perceived to have been inadequate at the time of the abuse: in particular, the man had been certified as lacking capacity to manage his finances by his GP, a

judgement he disputed. The man's advocate supported him to raise an ASP concern. However, the responding officers judged that seeking advocacy support was evidence of the ability to safeguard one's own interests, and that the three-point criteria were therefore not met. The factors thought by this participant potentially to have influenced this judgement were far from disinterested:

*"It depends on... Maybe just because you get, it's submitted at a time when they've got a huge big load have come in, and they're really having to be quite brutal about how they decide, you know, about whether to make an inquiry or not. They've said, Oh no, well – they've protected their own interests, because they've phoned you."* [Interview 1]

Meanwhile, participants in Interview 5 perceived a fairly endemic culture within their own local authority of being closed to challenge. They described a situation in which a carer concerned about his wife was actively discouraged from formally raising concerns about the home she lived in:

*"...the sort of subtext that was coming across was that if my client<sup>1</sup> was, you know, going to raise all these things, that they may need to restrict his contact with the spouse."* [Interview 5; Participant A]

In another case in this local authority area, a man who had experienced violence from a flatmate was concluded to have "brought it on himself" by his own behaviour, and the ASP referral was therefore not pursued. There was a sense amongst participants in relation to both these situations that concerns were being dismissed as "just something that happens" because this was more convenient to the council than pursuing them under ASP. Moreover, the labelling of particular complainants as "troublemakers" was functioning to support this process:

*"I think where there's a reputation of having raised too many, or being, you know, not kind of satisfied with conclusions, then it's kind of like, Look: enough. You have to just drop these things."* [Interview 5; Participant B]

*"I mean it sounds ever so cynical, but from most of the experience, it's about protecting the actions of others, rather than protecting the people."* [Interview 5; Participant C]

There was little confidence amongst the participants in Interview 5, therefore, that application of the ASP criteria was taking place in conditions of disinterested scrutiny.

### **3.2.1.3 Interface of ASP and other services/supports**

Perceptions amongst participants about the intended interface of ASP processes with other legislation and wider support services coloured their discussion of referral processes in a range of ways. For instance, one participant valued the fact that the ASPSA is such "dominant" piece of legislation:

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<sup>1</sup> Some independent advocacy organisations refer to the individuals they support as their "advocacy partners" or "partners". Others refer to them as "clients". These terms are used interchangeably throughout this report.

*“Well I think what’s been helpful from the legislative point of view is that it trumps the other legislation. It’s more important. ...So if there is something that we need to consider under ASP legislation, we need not to worry whether there’s a guardianship in place; we need not to worry whether there’s appointeeship in place; whether there’s, you know, someone has a CTO or whatever. Other bits and pieces might be in place, but we need to look at this on its own, on its own merits, because that’s the legislation that is the predominant piece of legislation.” [Interview 2; Participant C]*

The overwhelming disappointment expressed by participants in Interview 5 about their clients’ difficulties in accessing ASP processes appeared to be related to similar expectations that the ASPSA required the prioritising of certain kinds of concerns under a separate and more robust legislative framework. This was something that they had not seen materialising in practice at all.

On the other hand, some participants spoke about the powers and duties under the ASPSA as being less momentous, and having less potential to impact on their clients either in principle or practice, than other pieces of legislation and types of intervention. Guardianship powers under the Adults with Incapacity (Scotland) Act 2000, in particular, were mentioned several times in this regard. One participant suggested that some instances where advocacy workers have been disappointed with the impact of the ASPSA might relate to unrealistic expectations about its potential, and indeed its intentions to transform priorities and approaches to most kinds of concerning situation. She characterised the ASPSA as a tool to prompt councils to “stop and look” at issues that were then generally appropriately channelled into other processes.

Two types of narrative about the early diversion of potential ASP concerns arose across the interviews, then, that were possibly related to these different expectations of ASP intervention. On the one hand, diversion into non-ASP processes was sometimes held up as an example of good practice. For instance, Interviewee 9 described the case of a man with dementia who was suspected to be subject to financial exploitation by a younger acquaintance. Following an initial inquiry, increased support services were put in place; no further ASP meetings or investigations took place and the acquaintance quickly dropped out of contact:

*“So that, whilst it didn’t go down a formal adult protection route – it got raised as an adult protection concern – but I think that again was kind of one of these least restrictively type judgement calls. What can we actually do, instead of going down that, you know having meetings and ...and probably not really achieving a great deal and maybe just delaying what we can put in place for him. Get other people involved. You know, which I thought was quite a good one.” [Interview 9]*

Similarly, another participant who sat on her local Adult Protection Committee felt that a situation in which most ASP referrals led to investigations and case conferences would evidence the use of the ASPSA as “a sledgehammer to crack a nut” [Interview 10]. By contrast, participants in Interview 5 described a situation in which they were immensely frustrated by the diversion of concerns away from the ASP process in particular, and from one process to another, in more general terms. This

case involved a service user's experience of violence by a fellow resident in a supported living setting. At various times this issue had been being addressed as part of the support provider's complaints process, as part of the local authority's complaints process, as part of the ASP process, and as part of broader discussions about a re-housing programme. These participants had high hopes that they would secure a clear conclusion and a constructive plan of action, having finally succeeded in progressing matters under ASP. They were therefore particularly frustrated when ASP processes did not proceed beyond the initial inquiry stage.

Alongside particular kinds of expectation of the ASP process, these different views on diversion away from ASP procedures were potentially also related to different degrees of confidence in wider support services in the local areas concerned. Specifically, where support services are viewed as agency-centred and lacking in responsiveness to service user need, higher hopes might be placed in a system expected to deliver some level of independent scrutiny, change and redress. Conversely, positive perspectives on diversion away from ASP procedures were generally expressed in the context of confidence that needs could be addressed in any one of a number of ways:

*"A lot of the clients that we've maybe flagged up as potentially being an adult protection client, or that there's a concern there, or maybe social work have too – in reality, we know straight away that the adult protection legislation is not the legislation that's going to work for them. ...Again, because there are other means of support. You can get social work teams in quite quickly, you can go down the Care Programme Approach, you know, there's lots of stuff you can actually do." [Interview 9]*

This participant, in particular, spoke highly of the generally person-centred ethos amongst statutory workers in her local area, and felt comfortable that decisions about entering and exiting ASP processes should be made on an individual basis informed by this ethos, rather than needing to be standardised *per se*.

#### **3.2.1.4 Transparency**

A final consideration that clearly intersected with participants' satisfaction or lack of satisfaction with processes of entry to the ASP system concerned communication about the outcome of referrals and concerns. In general, in the pieces of work discussed across the interviews, participants knew whether or not the circumstances were being considered under ASP procedures, at least in these early stages of the ASP process. They also had some knowledge about the reasons for decisions made in relation to the three-point criteria, as evidenced by parts of the discussion above. Where this was not the case, frustration with referral processes was more frequently raised.

*"You could have one team where ...something can be reported, an ASP concern, and they're fast, and they move, and they do something about it. You can have another team where we end up phoning and phoning, nobody contacts us, we don't know what's going on. ...There have been occasions where it just, nothing's happened. But we haven't been told why*

*nothing's happened. ...And therefore, our partner<sup>2</sup> doesn't know either."* [Interview 3; participant A]

Again, diversion from ASP processes into other processes and means of addressing concerns tended to be spoken of positively in situations where there had been clear communication about the fact that this was happening, and negatively where there was a lack of clarity about the ending of one process and the beginning of another. In the latter circumstance, as emphasised above, the lack of communication with the individual themselves was of particular concern to all participants.

### 3.2.2 INVESTIGATIONS, MEETINGS AND CASE CONFERENCES

Similarly to their experiences of referral processes, participants reported aspects of more or less helpful practice, once formal ASP procedures had got underway. This section considers perspectives on information-sharing, communication and support for the adult's participation in the context of investigations, meetings and ASP case conferences.

#### 3.2.2.1 Information-sharing and communication

The helpfulness of a co-ordinated ASP process in which information is collated, shared and discussed was emphasised by a number of participants.

*"...the ASP was a way of pulling everyone together to look at everybody's concerns and their experiences around this gentleman, so that they could actually start building a jigsaw. When did it start; when did it get worse; what actually is happening, you know. ...because people were, you know, scattered really. ...Might be only a few miles, but unless you're talking to one another you can't get to the bottom of it."* [Interview 6]

*"...there was also housing issues, and then of course with a multi-disciplinary team, it then lead to them getting a house sooner rather than later, which was more appropriate to their needs, ...So yeah, I think sitting together, as a multi-disciplinary team, had a big advantage in that case."* [Interview 8; Participant B]

There was a sense from several participants that the priority attached to ASP issues results in better attended multi-disciplinary meetings than are generally possible "in any other circumstance" [Interview 8; Participant A]. Interesting in this respect too, however, was one participant's implication that ASP meetings, rather than offering something new, are a welcome replacement for something lost, which might previously have helped to address concerns at an earlier stage:

*"It can be neither here nor there in many ways that it was under ASP. It's just the actual fact of having a meeting. Because review meetings, social work review meetings, they just don't happen very often any more. There's just not time, you know? Or enough social workers, or..."*

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<sup>2</sup> See footnote 1 on p.17

*So they don't happen. So lots of things can just have been going on under the surface for a long time without anybody really noticing."* [Interview 1]

Similarly, participants in another local authority area contrasted the high standards of communication with adults at risk during formal ASP processes with lower standards sometimes experienced before these processes and also after their conclusion.

### **3.2.2.2 Support to participate**

Participants in different local authority areas had different experiences of support for the adult themselves to participate in ASP processes. In one area, neither adults at risk nor their advocates were reported to be routinely invited to attend ASP meetings or case conferences; they had sometimes been excluded from inquiry and/or investigation processes as well. In other areas there had been some examples, often more isolated, of unhelpful assumptions about participation:

*"One criticism I have is that sometimes the investigating person is sometimes dismissive of the individual. Because they make the assumption that they cannot inform them what's happening."* [Interview 6]

*"I think quite often they just kind of say, Och, yeah, they don't go to review meetings: they'll not come to this. Without really offering them the chance to do so."* [Interview 1]

Another participant had experienced a situation in which delays in getting ASP processes underway were so lengthy that the individual could not remember enough about the circumstances to participate meaningfully, though he might in principle have been able to do so had investigations and meetings taken place within a shorter timescale. Elsewhere, however, several participants spoke highly of arrangements for facilitating participation in their local areas. Indeed, two participants specifically noted that communication with the adult works particularly well during the time that investigations, meetings and case conferences are ongoing.

There was a general consensus that ASP meetings and case conferences can be intimidating for adults at risk. This might be because of the emotional intensity of the issues involved, as well as the individual's expectations and/or unfamiliarity with this kind of process.

*"And then often family members or staff – if the other individual is also present, there'll be arguments going backwards and forwards or voices raised. ...And the partner is just... It's a huge thing anyway, but to have 'caused' an argument as well... And no matter how many times you explain something, if that's what they think is happening, that's what's happening as far as they're concerned. So it needs to be managed very well."* [Interview 6]

*"People sometimes think they're going to be detained or they're going to be taken away or they're... You know, there can be lots of thoughts about what's going to happen directly at the end of a meeting."* [Interview 2; Participant C]

Interviewee 6 in particular noted how nerve-wracking it can feel for matters to be “out of your control” at this stage of the process, not least in situations where the harm itself has already shaken your confidence and impacted on your previous relationships of trust.

The size of some ASP meetings, especially where attendees are unknown to the individual, was particularly commonly mentioned as having the potential to increase or decrease anxiety levels and the ability to contribute fully. Other commonly mentioned factors were the use of more or less formal language, and the location of meetings and case conferences in more or less formal settings:

*“I think you need to understand what’s being said. ...We’re really paying lip service to the person’s, you know, ability to attend, if we’re speaking in such a way that it’s not going to be understood by the individual.”* [Interview 2; Participant C]

*“I mean the last ASP meeting I went to was in a really old building in [place]. And it was basically like the old chambers. So it was like a court. The echoing... It was... I felt intimidated.”* [Interview 2; Participant B]

Participants who had seen adjustments in these kinds of factors spoke very highly of them:

*“They’re not going into a room of twelve to fourteen people, professionals that are talking highfalutin language. They are people that – they reduce the numbers now. Only those that are necessary are there. So that’s a good thing. And they do try to speak in, language friendly, as much as people can.”* [Interview 6]

*“It’s actually stopping the meeting to allow that person a bit of time to think about what it is they’re saying, or maybe re-wording what’s been said in a different way. So that we know that they fully understand. And there’s not a problem to do that here. ...[place] is a fairly good place to work, and people are quite – staff, social workers are quite good with people that they support. And they would allow room for that to happen.”* [Interview 7]

*“It was very informal, it was in his house, he knew the social worker, he knew me, and he was very relaxed about the whole situation.”* [Interview 2; Participant A]

Where smaller, less formal meetings were described, these had sometimes taken place before a larger meeting, which the individual might or might not then have opted to attend. The option to organise the process in this way appeared to be more standard in some local authorities than others. Where such alternative arrangements were not a standard option, some participants recommended that they be introduced.

The nature of participants’ roles also gave them insight into ways that tensions can be defused or heightened for an individual, even before a meeting starts. In particular, one group of participants described a system whereby all case conference attendees are invited to attend at the same time, even where a smaller group of professional attendees are intending to meet together first:

- A: *It's just incendiary. If you're the client stood outside. You go, well why can't we go in – because they're talking about, or they're having a meeting without us.*
- E: *And they're already nervous about it –*
- A: *Yeah*
- E: *- and they've got to stand out the door and wait for half an hour. [Interview 8]*

Another participant noted that constant changes to the time and date of meetings increased the tension for individuals who were already nervous. A third group of participants had experience of ASP meetings being re-designated as “reviews” at the last minute, because a key member of the ASP team had been called elsewhere. They felt that more adequate back-up arrangements should be in place, likewise noting the impact on individuals who might be very anxious, and who had prepared themselves for an ASP meeting.

The role of the chair was repeatedly discussed as a key factor impacting on individuals as they prepared for and attended meetings and case conferences. Where chairs had met with the adult and their advocate before the meeting this was reported to have been found immensely reassuring. Participants felt that meetings themselves worked best for the adult concerned where the chair was skilled at including them, at managing difficult dynamics, and at making outcomes and decisions as clear and specific as possible. There were a number of examples highlighted of this being managed well.

*“...bringing them into the discussion as much as possible, and stopping things, and making sure that they're understanding what's going on. ...She was fantastic at that. Generally that's been my experience. She was particularly good. But generally that has been my experience that the person chairing it is very good at making sure we all remember why we're all here.”*  
[Interview 3; Participant B]

*“The chair of the meetings have been very clear about everybody's role. And gives everybody the opportunity to speak, while keeping putting people back to the main point. Because family members might be very upset. So it's giving them the opportunity to speak, but making sure that they don't run away with the meeting ... And... very clear action points, within a time limit. Because then that gives the individual, knows, well by this time this should be happening and that should be happening.”* [Interview 6]

Adults and their relatives were also noted by some participants to value clear records of meetings, the opportunity to comment on minutes and have amendments tabled as appropriate, and the availability of timely feedback about meetings they did not attend.

### 3.2.3 BALANCING RIGHTS AND RISKS

This section discusses participants' perspectives on the weighing up of rights and risks in inter-agency ASP work. A number of participants noted the existence of examples from their experience in

which ASP processes addressed risks in more or less straightforward ways that were satisfactory to the adult and professionals concerned. These instances tended to involve particular kinds of harmful situation, a point that is examined in section 3.2.4. One participant also specifically noted how satisfied she felt overall with the approach taken to risk and protective interventions in her council area:

*“I think we’re very lucky with the social work teams we do have. And overall they are pretty darn person-centred. And act, wherever possible, in everybody’s best interests. Certainly do take on board the concept of, you know, using the least restrictive means of supporting people. Which I’m pretty sure doesn’t happen in other areas.”* [Interview 9]

This section centres around examples involving some degree of conflict or dilemma, however, because of the insights these kinds of examples offer, and because discussions in interviews tended to gravitate towards the more challenging of participants’ experiences in the context of work with risk and harm.

### **3.2.3.1 Concerns about under-intervention**

As noted in section 3.2.1 above, some participants had found themselves pushing for further action in relation to concerns that council officers were not inclined to pursue. In taking this position, one participant noted a sense of reversed roles:

*“Outside of ASP work, I would say that social work tend to be risk averse and advocacy tends to be almost at the other end of the scale. But certainly risk aware and risk enabling. ...Where in ASP it’s very strange... it seems to be the other way around. We’re kind of saying: Oh no, this person is at risk. And the number of times we’ve had to press officers to take any, or to take a decision, or to make a decision. But to press them and say: Well we disagree with that decision. We think you should look at that again.”* [Interview 2; Participant C]

Interviewee 9 described enlisting the assistance of advisory officers from the local ASP unit to exert pressure on certain local teams to take some issues forward. Participants in Interview 5, who expressed the greatest level of concern about issues not progressed, described their ongoing discussions with ASP council leads to address the barriers they perceived within their local ASP systems. This group of participants also reported referring one circumstance to the Mental Welfare Commission, who agreed that it ought to be addressed under ASP.

Participants saw a clear role for themselves in mounting such challenges where clients wished for action to be taken, and also in cases of harm to an adult unable to instruct an advocate. These various roles of independent advocacy are discussed in more detail in section 3.3. It was also possible for advocates to be representing the views of an individual who did *not* want action taken, whilst feeling deeply uncomfortable on a personal level about the levels of intervention being offered by professionals charged with protecting that individual. Interviewee 4 was grappling with a circumstance like this, in which an individual lacked capacity to make decisions about her personal

welfare, and was subject to a guardianship order taken out by the local authority. She was being given illicit street drugs by her brother which, given her existing medication regime, had real potential to seriously harm her. Interviewee 4 was supporting her to express her wish for no state intervention in her life, either under guardianship or under ASP, whilst feeling extremely concerned about the situation, and the seeming inability of the local authority to address these grave risks to wellbeing:

*“I just keep coming back to, what is the point of having a guardianship for someone – because you’ve got, you’ve got responsibility for their welfare. And their welfare is not being taken care of. ...Because if you can’t go in... OK, you make sure she’s got carers, you control her money, you make sure people take her shopping, she gets all that, yeah. That’s all good and well. But if she’s not going to be protected, and one day could die from an overdose, then you haven’t protected her.”* [Interview 4]

This participant understood the local authority’s reluctance to limit contact between the woman and her brother as relating to their interpretation of their human rights responsibilities. She feared that the professionals involved were not entirely clear about their legal powers and duties, however, and she questioned whether the right to family life was being appropriately balanced against other human rights, particularly in the context of a relationship that she considered to be a harmful and manipulative one.

### **3.2.3.2 Concerns about nature of interventions**

As evidenced by the example from Interview 4 above, advocates’ personal sense of the best course of action overall might or might not coincide with the views they are supporting a client to express. A number of participants expressed empathy with the difficult decisions faced by professionals with specific ASP responsibilities and a duty of care, and they characterised some tensions as inherent to the respective, though complementary, roles of statutory and advocacy workers.

*“sometimes, what an individual wants and you’re supporting them to say, and what keeps them safe, are at polar opposites.”* [Interview 7]

*“...we would be the first to say, you need to keep people safe. It’s really, it’s not straightforward.”* [Interview 7]

Nevertheless, participants also spoke about a number of examples in which they felt that the approach taken by statutory ASP services did not sit comfortably with a rights-based ethos. These examples generally involved individuals whose own decisions were the source of professional concern, often in the context of full or sporadic capacity to make them. Participants tended to report negative experiences of ASP processes on the part of the adult in these kinds of circumstances, alongside outcomes of questionable value.

*“people that go through it feel often very negative and often they don’t want to go through that process. They don’t want people discussing their personal life and their personal issues. ...and I suppose we maybe see a particular side of it, that maybe other people don’t. You*

*know because they might see – the professionals might see resolutions, and that the person's being kept safe. But what we hear from individuals often is something quite different.”* [Interview 7]

*“she was removed from that property, and she was taken into care, and they sorted out the house, and they did all this. And they put her back in. And a year later it was exactly the same. It was exactly the same situation another year down the line. ... And it's because you can't protect people from themselves.”* [Interview 3; Participant B]

Again, several participants acknowledged the pressures on statutory workers, particularly when faced with circumstances like these:

*“when I go to ASP committees and things like that ...people do have the values of adult support and protection and people's choice and making people safer but also ensuring that people are involved in that. But maybe ...as people are kind of pressured and rushed and they've got high caseloads on the front-line, some of that kind of – it's not deliberately forgotten or anything – but just pressures, other pressures don't enable that always to happen.”* [Interview 3; Participant A]

*“I think it's a difficult position to be in. You know if you were the person whose neck is going to be on the block should something happen. I don't know if I'd be any better.”* [Interview 8; Participant A]

Nevertheless, there was a theme of objection throughout several of the interviews to practice seen to stem from a fear of risk, and the consequences for workers and agencies, should risk not be minimised. One participant in particular described how far such practice can stray from person-centred principles:

*“I think that is about people trying to resolve things, and make everything better, when their idea of ...what 'better' is, is not the 'better' for that person. But it's like fitting... OK, this is my idea of 'better', so we'll **fit** that person into that 'better', and it'll all be OK. But that isn't that person's 'better'.”* [Interview 3; Participant A]

Another participant described the tokenistic level of involvement which she generally associated with practice of this kind:

*“the worker who's involved ends up tying themselves in knots so much about, like, wanting to make sure that they've definitely ...everything's done and they've covered everything. And what they end up doing is actually having conversations with the person ...sort of **telling** them what they need to do. ...If you do this, if you stay away from that person, you don't go near there, and you do this and you do that, then this can't happen again. And it kind of comes across a bit like, because **you** don't want it to happen again, because you need to really make sure that you've dealt with this.”* [Interview 3; Participant B]

Predictably, protection plans drawn up in this kind of way were noted by this participant to be likely to break down.

Practice unduly focused on “protection”, then, was criticised in an overarching sense for misinterpreting the spirit of the ASPSA, and its intended fit with a range of other legislation underpinned by principles of benefit and least restrictive options. One participant described an ASP meeting that she felt had adopted an unhelpfully narrow remit:

*“I’ve been at an ASP meeting, and then I asked about support. And he was like: We will not be talking about that because this is adult support and protection. And I was saying: Well I think it’s quite **key** because, you know... the person needs support to deal with this situation. And he refused to speak about it. And I said, I thought this would be much more a holistic process, about the whole person ...But he closed me down.”* [Interview 2; Participant B]

Instead, this meeting was apparently convened exclusively to focus on planning an investigative interview. Several participants felt the “support” element of ASP could sometimes be forgotten, and two described ASP powers and processes used inappropriately, in the worst case scenarios, as a means of “sanction” [Interview 8; Participant A] or control.

*“I think what you’ve experienced is that with this client, it’s actually, ASP is being used as a weapon against him, at times, to manage his behaviour. Because when the behaviour is there then his capacity reduces so they’re: Right, we’re off. You’re not capable... This constitutes a risk that’s unacceptable and we’re going to act. And if – but that starts to feel negative.”* [Interview 8; Participant A]

*“we have supported a lady who was in a very unsafe situation; was doing risky behaviour; I think she was driving up the middle of the road in her wheelchair when she was drunk and stuff, and things like that. ... I’m sure hers went through ASP. But eventually what happened was a guardianship order was applied for. And she was taken out of the home that she lived in in the local community [and] placed into a residential care home. And now lives there and can’t leave without staff being there. ...She is no longer allowed to have her friends in that environment. She wanted to go on Facebook but she was told she couldn’t go on Facebook anymore.”* [Interview 7]

In the second of these examples the participant explicitly considered the degree of restriction to stem from a felt need for control over somebody who was found to be “complex and difficult” [Interview 7]. This participant felt that alternative, less stringent means of support at an earlier stage would have prevented the situations arising, over which professionals now felt this level of need for control.

### **3.2.3.3 Compromise, flexibility and creativity**

Rather than fitting individuals into the worker’s view of “better”, interviewee 3A proposed the need to find:

*“those little bits of compromises in between - that help that person to retain some control over the situation.”* [Interview 3; Participant A]

Another participant noted positive experiences of seeing creativity employed and compromises reached, in the context of her work to support adults with learning difficulties and challenging behaviour to contribute to support and protection plans:

*“So it’s not just: What are you saying has happened? It’s: What do you want to happen next? ...And people can say all **sorts** of things. But sometimes, somebody will think sideways, and think well actually that is achievable. You know. And that will diminish the challenging behaviour and the opportunity for people to get distracted in maybe not a very positive way.” [Interview 6]*

Notwithstanding the value of “thinking sideways” [Interview 6] or “thinking outside the box” [Interviews 1; 3; 8], however, some of the types of flexibility that participants felt would help in ASP situations were noted to require a degree of authority and/or resourcing that front-line social workers do not always have at their disposal. This was one reason that the participants in Interview 3 described the ASP process as generally smoother and more helpful, in their experience, at its reasonably advanced stages, once more senior people like case conference chairs had begun to get involved:

*“So for instance say, there are things that could be put in place, that are from the learning disability team, but that person falls under mental health. Sometimes it’s only when you get people of a senior level who have the authority to make those decisions, that those things happen. That the supports from two different teams can be put in place to help that person to become more empowered to deal with that situation. But on a – a front-line worker’s point, ...they don’t have that authority to say, well, we **need** that input from that particular service in your team. And it doesn’t always happen.” [Interview 3; Participant A]*

Several further participants spoke about instances in which the resources to support appropriately creative practice were either not available or were not considered. Two examples involved the use of a care home as a place of safety. In the first example this was perceived to be unhelpful because the older woman involved never subsequently returned to the community, as was her wish, though her advocate felt she might have done so had this option been more actively supported. In the second example a younger woman who had been trafficked into the country was placed temporarily in a rural care home for disabled people, and was reported to have felt just as “imprisoned” in this environment as she had previously felt in the flat to which she was trafficked. Participants in a further local authority area felt, in particular, that the shortage of alternative resources was a barrier to effective ASP practice in their rural location. They described two examples of individuals living for weeks or months in fear of violence from co-residents in their supported living settings, where the need for alternative arrangements had been acknowledged but not yet delivered:

*“Twelve weeks it took. ...Even though adult protection was involved, it still took twelve weeks. And my client ...had spent eighty per cent of their time in her room. Wasn’t able to leave the room. Because she was too frightened.” [Interview 8; Participant D]*

*“Because this man was still living – it was bad stuff. The guy had been threatened with golf clubs and everything, you know, and again, like you said, locked in his room. ...Crying all the time. I used to visit him and he used to start crying: Get me out of here.” [Interview 8; Participant E]*

One of these participants in particular attributed the problem to an absence of creative thinking, rather than to an absence of resources *per se*:

*“Most times they’ve got a number of homeless houses set aside. In emergency cases. So they could have been transported there for maybe three, four months, until something come up. And they’d be top priority. And then they could have moved into their own flat after that. It could have been – it’s a matter of thinking out of the box a bit.”* [Interview 8; Participant E]

Some further implications of this line of thinking are considered in section 3.2.4 below.

### 3.2.4 CONCLUSIONS OF ASP INVOLVEMENT

As was the case for earlier stages of the process, participants had widely varying experiences of outcomes of ASP activity for the individuals they worked with. A minority of participants had few examples of negative outcomes, whilst some had very limited experience of any positive outcomes. A majority reported some mixture of the two. This section considers the types of outcomes experienced, and some factors that were thought by participants to have influenced these outcomes.

#### 3.2.4.1 Positive outcomes

A positive outcome of ASP processes cited in two interviews in particular was the sense of validation and increased confidence that results from being heard and having one’s wellbeing taken seriously, a previously rare event for some adults at risk:

A: *But we did see, as the process was happening, ...the realisation that she had a right to have more of a say. And that actually what had been happening to her wasn’t correct. And actually then started taking a little bit more control. ...*

I<sup>3</sup>: *And what was it about the ASP process in that case then, that made that –*

A: *I think just seeing people working to listen to what she – for the independent advocate and the other people involved. You know, the social workers involved. Listening to what she had to say and putting her first. [Interview 3]*

*“I think that can be quite powerful for them as well, that they know that everybody who’s sitting round that table is just trying to help them and make their life better.”* [Interview 1]

Where it was possible to experience ASP processes as a break from previous patterns of disempowerment, therefore, this had the potential in itself to improve the situation of some adults at risk.

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<sup>3</sup> Interviewer

The likelihood of positive outcomes was also seen by a number of participants to be closely associated with the type of harm experienced. In particular, several participants identified financial harm as something they had seen effectively addressed by ASP interventions, sometimes on numerous occasions. This was suggested to be for a number of underlying reasons:

*“It’s a tangible thing; they’ve been defrauded; it’s a certain person that’s done it; and they’re able to then put steps in place to stop that happening. ...and they’re keen for it to stop happening to them as well. I think probably that is the key difference. They want the help and they want to be kept safe.”* [Interview 7]

The contrast with the largely difficult experiences discussed in the previous section, where adults’ own decisions or chosen relationships were judged to be placing them at risk, supports the distinctions drawn by Interviewee 7 here.

Participants also described circumstances in which ASP processes had led to a range of supports being put in place around an individual to safeguard them in the longer term. This included ongoing relationships with advocacy in some instances.

*“we put a volunteer advocacy worker in there, because they’ve got more flexibility, more time, they can spend a lot more time with the person. And between the social worker, duty social worker, advocacy, and I think it was either [other local voluntary organisation] or the Red Cross, one of the two, got him into one of the social centres for his lunch. ...[The perpetrator] just kind of vanished off the face of the earth once she realised that there was people keeping an eye on what was going on.”* [Interview 9]

The identification of perpetrators’ needs and the provision of appropriate support to them was also cited by one participant as a positive outcome of some ASP processes. This might be particularly relevant in circumstances involving caring relationships with some level of mutual need.

### **3.2.4.2 Negative outcomes**

Standing in contrast to the examples above were some participants’ experiences of ASP processes that they felt had not lead to appropriate levels of support being put in place for an individual. Sometimes this was because of difficulties in persuading statutory services to implement ASP procedures and/or to respond to an issue at all, as discussed in section 3.2.1 above. Other examples involved circumstances that had been examined under ASP. The participant who described the tendency for professionals to “end up ...telling [the adult at risk] what they need to do” (see section 3.2.3.2) linked negative outcomes of this kind with this type of practice:

*“That’s all very well saying don’t go near that person, but if that’s the only person that they have any contact with ...if there’s no **alternative** considered... And I think that’s sometimes a barrier, is that when you’re saying: these are the things that are putting you at risk – there*

*isn't really an alternative in a lot of those cases. For the person to say, well, if I don't do that, I could do this, and that would be better for me."* [Interview 3; Participant B]

Meanwhile, other participants drew explicit links between a failure to provide additional or alternative supports and resource issues in services more generally:

*"there's probably hundreds of cases where you've felt there's no point. Nothing changed, you know? Quite often it's because there's just not enough money. You know, someone is quite vulnerable but they do spend the majority of the time on their own, because they only get two hours' support a day, or things like that. ...Sometimes we kind of come away feeling that in an ideal world, things could get changed for the person. But in the current environment they can't. And so it, you just feel, it's going to happen again."* [Interview 1]

This participant also noted the resource-intensiveness of the ASP process itself:

*"And for the social workers – I get their frustration a lot of the time as well, because they think, well, you know, you fill in these forms, all these reports get done, protection plans get done, and we have all these meetings. And that takes up such a lot of their time."* [Interview 1]

This reference to social workers' frustration was made specifically in relation to circumstances where, despite these time-consuming efforts, "nothing changes in the end." [Interview 1]. This might be because supports are not available, or it might be because the adult themselves did not wish to engage with ASP.

In relation to the issue of limited resources, participants in interview 8 returned to the felt need for an ASP system that considers harm and responses to harm in a disinterested or "independent" way. One participant in this interview suggested that ASP powers and duties might be located outside of local authorities, in order to ensure that decisions about responding to harm are not unduly influenced by the need to limit spending. The participants then discussed whether present arrangements allow for decisions about interventions that are disinterested enough, where resource considerations have come into play. The case of the man who wanted to leave his supported living setting because of threats of violence (see section 3.2.3.3) was cited to explore this point:

*I: Do you have examples of where, if it had been independent, it would have been better? Where there was a real sense of a conflict of interest?*

*E: Possibly with this case...*

*A: So more pressure would have been brought perhaps...*

*E: There would have been more pressure...*

*A: It's hard to see how you could change the outcome if the facility doesn't exist. But I suppose there might have been more incentive to try, if it was a...*

*E: I think they could have thought more outside the box. ...There might have been homeless flats that somebody could have went to, for a short period of time to get them sorted. ...*

*A: So it should be, the local authority making a decision that suits themselves, really, rather than the best option for the client, yeah.*

*B: Because I think it's about resources...*

D: *It's always about resources. The majority.* [Interview 8]

An ASP system more independent of local authorities was also speculated, in this interview, to offer the advantage of a clearer process for appealing decisions, for instance about the fit of a given situation with the ASP three-point criteria.

Greater prioritising and resourcing of issues clearly identified to be ASP concerns would not have delivered better results, however, in the examples of particularly negative outcomes cited by some other participants. On the contrary, some participants considered the “cracks and gaps” [Interview 1] around the circumstances clearly agreed to meet the three-point criteria to be precisely where supports and resources are lacking most:

*“And I guess there's that kind of area where, maybe the person doesn't quite meet the three-point test, but they're still a very vulnerable adult. So it gets closed at the kind of initial inquiry stage, but there's nothing else now for that person to go to.”* [Interview 1]

*“...no help was offered because it didn't meet the criteria. But if somebody was to pick that kind of work up, and help that individual, then it might prevent somebody then in 5 months, 6 months, 7 months' time, then for real going through ASP. And then for real maybe getting a guardianship order or being detained in hospital or whatever it might be.”* [Interview 7]

Interviewee 7, in particular, discussed a situation encountered more than once in her local area, where individuals had raised issues under ASP processes that they genuinely believed to be real ones, but which ASP processes had established *not* to be real, in respect of their criteria.

*“I suppose maybe ASP might not be suitable for some of these very, very chaotic people. Because then it leaves them feeling, Well, people don't believe me. I'm still on my own. I'm completely isolated... They've maybe got severe personality disorders; maybe historically there has been abuse there, but people's perceptions and beliefs about what's happening in their life is nonetheless equally as real as the investigations that have gone on to prove that these things aren't happening.”* [Interview 7]

In one such case in particular, the act of raising the experience to ask for support had itself made an individual feel far less safe:

*“...was a big issue that they'd come and raised, a really gruelling issue ...it was discussed in a big environment, and it was kind of out there; this horrible thing was out there.”* [Interview 7]

However, whether through an absence of diagnosis of a mental health problem, an absence of available treatment or for some other reason, no further support had been forthcoming following closure of this issue under ASP.

### 3.2.4.3 Feedback and endings

For participants in two interviews in particular, a final point of concern with adults' overall experiences of the ASP process concerned communication about its conclusions.

*"...there's no official – I'm sure there is on their system – but there's no official, for the person, experience of closure to that process. Which leaves a lot of people thinking they are under... A **lot** of people we start work with at an assessment, they'll mention something – Oh, are you part of the ASP process? Yeah, oh yeah, yeah. And in the end it was two years ago."* [Interview 3; Participant B]

For some individuals this meant an ongoing sense that "someone's watching" [Interview 3; Participant B] and of being under scrutiny, long after an issue has actually been closed. Participants in interview 3 noted this absence of clearly communicated endings meant their agency frequently also lacked up-to-date information about an individual's status under ASP. In interview 5, meanwhile, examples were given of individuals who actively wanted their circumstances to be considered under ASP, and who had not been told that this was no longer going forward. Sometimes this lack of communication with the adult was accompanied by third party reports or informal communication with the advocate that was felt to be deeply inappropriate.

*C: The verbal feedback that I got was that the client who was reported as being the possible adult at risk of harm, was seen to be the trigger for the challenging behaviour.*

*B: But that's not been reported to the client. And was inappropriately shared with you by someone from ASP. We still have nothing in writing. [Interview 5]*

*I: What's been communicated with him as to what's happened to his complaint?*

*D: Nothing.*

*C: I mean on my last visit, I shared that I was very frustrated, that each process that we tried to go through, that I wasn't getting a conclusion and an outcome. So I was just totally honest. ...And the only other thing I was told about the investigation was that it had been assessed that there was no long-standing harm. That it wasn't affecting him.*

*B: But that's not been fed back to him. [Interview 5]*

These types of experience contrasted starkly with the "clear action points", "regular reviews" [Interview 6] and mutually understood conclusions reported to characterise some more positively experienced ASP processes. Indeed, in many examples raised by other participants throughout the interviews, there was no dubiety expressed about whether a conclusion had been reached *per se*, albeit that some conclusions were more welcomed than others.

### 3.3 INDEPENDENT ADVOCACY'S ROLE IN ASP

This section discusses the specific role of independent advocacy in statutory ASP processes, and the facilitators and barriers reported by participants to impact on fulfilment of this role. In practice there are significant overlaps and interconnections between these factors and the general factors impacting on individuals' experiences and outcomes of the ASP process, as discussed above. The separation is made here for clarity of discussion only.

#### 3.3.1 ROLES IN ASP IN PRINCIPLE

Independent advocacy is defined by the Scottish Independent Advocacy Alliance as "a way to help people have a stronger voice and to have as much control as possible over their own lives" (Scottish Independent Advocacy Alliance 2014). It involves facilitating choice through the provision of information and support to speak up, and it may involve speaking on behalf of people who are unable to speak up for themselves (Scottish Independent Advocacy Alliance 2014).

Participants described a range of roles that they might undertake within ASP situations and processes in particular, depending on the situation and on the advocacy partner. Independent advocates might play a role in helping individuals to understand their rights in the context of the harm itself:

*"So you're able to help the person understand that it's their money and that they should be the person deciding how it's spent, and not someone else. Helping them decide who they would like to help them with their finances."* [Interview 1]

*"He's able to tell you, he's able to point to parts of his body, and pinch, and say the word 'nip'. And sign who's done it. ...and for me as an advocate to say to him it's his right, he has a right to be free from abuse and that shouldn't happen. ...And I'm passing this back..."* [Interview 5; Participant D]

Independent advocates might also assist with understanding of ASP procedures and interventions and the individual's rights in relation to these:

*"...we know the processes. So ...we can be giving the people the information about the processes. So: yes, that's absolutely the way it should happen, and this is what will happen next."* [Interview 2; Participant A]

*"I think it's giving people an actual understanding that they have rights in all of this too. ...And trying to make them see that any interventions are potentially positive. But make sure they still have that informed choice, underlying it. And you know, they don't have to stay if they're removed to a place of safety. But you give them the consequences as well, if they don't."* [Interview 9]

One participant characterised statutory ASP processes as having a key role in safeguarding people's rights to life, and to live well, and independent advocacy as having a key role in "safeguarding people's other rights" [Interview 10]. From the ways all participants described their work, the rights to make choices and to participate in decision-making processes can be inferred to be key amongst these "other rights".

Participants placed a great deal of emphasis on the support they can provide to individuals to participate in ASP meetings and case conferences. They described discussions with the individual beforehand to help them to consider their options and to plan what they would like to communicate in these types of forum. They described attending meetings together with their partner, or on their behalf, depending on the partner's own preference. There is a moral support element to preparing and attending together that one participant characterised as "metaphorically holding their hand" [Interview 9]. In terms of practical assistance, helping to ensure that a partner's communication needs are adhered to, requesting breaks in meetings where required by the partner, for instance because they are upset or for further explanations of content, and acting as the partner's "memory" [Interview 2; Participant A] by keeping a note of proceedings for their purposes, were all reported to be part of an advocate's role. Participants described representing the pre-agreed perspectives and choices of their partner at meetings, where they had been requested to do so, or sitting silently in meetings where the partner themselves preferred to speak. They also described helping to set up alternative arrangements, such as smaller pre-meetings, for individuals to communicate their views if this would be their preference. Going over what happened with their partner after a meeting, whether or not the partner attended, and answering any questions, were also characterised as key parts of the advocacy role. Where an individual is unable to communicate their views, participants also described the means that they employ to investigate preferences, needs and/or past views in order to represent these, for instance by spending time with the person, using a range of communication aids, and having discussions with relatives and other key people in the person's life.

All participants characterised their role as one element in a broader process:

*"Advocacy is just a tool, do you know what I mean, we're not the cure-all to all ASP problems."* [Interview 7]

They acknowledged that "it doesn't work for everybody" [Interview 7], and some mentioned partial overlaps with other people's roles: for instance, social workers should also be providing information about ASP processes. However, the distinctiveness of independent advocacy's contribution was identified to lie in the type of relationship an advocate can establish with an advocacy partner. Most importantly, the advocate is independent of conflicts of interest, including the conflict of interest inherent in the roles of professionals who have a duty of care. Specifically, the advocate is not concerned to advise clients in relation to their best interests nor, where their partner is able to instruct them, to make or express best interest judgements themselves. Aside from their role in helping the partner to understand the options and their consequences, the advocate is also not influenced in their activities by the interests of anybody else:

*“We aren’t sitting there as the care provider, saying: I want to keep this person here in this service: I need that funding. I’m not the social worker saying: Oh, I just want this to get sorted out.” [Interview 8; Participant D]*

*“..what you’ll be there to do is to make sure that the solutions offered are the most appropriate. Not the easiest for everybody else. They are the most appropriate for your client.” [Interview 8; Participant A]*

This sets up a particular dynamic that was widely portrayed as a vital additional safeguard, not least for people who are particularly susceptible to persuasion and least practised in asserting themselves, in the context of a process with potentially major implications for their life. The role of advocacy in helping to press for further action where the outcomes of ASP processes are *not* satisfactory to an individual and/or appear to be in breach of their rights is one example of this distinctive type of relationship and safeguard in practice. Conversely, some participants spoke about the use of their relationship with an advocacy partner to facilitate the work of other professionals, where this best helps to safeguard an individual at risk:

A: *...it was only when advocacy came in that, all the professionals around him, that he was able to trust those professionals. And it was the advocacy worker who then supported him to look at the different options, places of safety, and it was the relationship between the advocacy worker and the advocacy partner that allowed all the other professionals to really be involved in a proactive way. And that man’s now safe and outwith that. ...*

C: *And acting as a conduit for other agencies is a great role for us. You know, if you can use your relationship with that individual to their advantage, then of course, that’s perfect. That’s an entirely appropriate use of the relationship that we’ve built up. And we’re not precious about it. It’s not like, we’ve got this relationship, you don’t, because you don’t put the time in. It’s not about that. [Interview 2]*

Incorporating both a degree of “positive challenge” [Interview 2; Participant B] alongside a commitment to partnership-working, then, independent advocacy was unanimously characterised as taking its direction in any given situation from the informed choices of a partner able to instruct the advocate, or from the basic rights of a partner unable to express a view.

Beyond the central feature of independence, however, participants varied somewhat in the degree of emphasis they placed on the relationship built with the individual as a part of their key role, particularly in relation to its depth and longevity. Some participants were working to an “issue-based” model, in which the advocacy relationship might be concluded following a case conference or review case conference. Other advocacy relationships might last longer, either because another issue has arisen, or because the particular model of advocacy being employed is less issue-focused. Several participants described volunteer or citizen advocacy projects situated in their agency, that allowed for a service to be offered to individuals beyond the conclusion of ASP processes, even where the service received throughout the ASP process itself was issue-based. Safeguarding, in its broadest sense, was represented to be a clear part of the function of these longer-term, relational models of advocacy too, in that they connect isolated or otherwise vulnerable individuals with a

person to be 'on their side' on an indefinite basis, and they strengthen the capacity of communities to respect and include all their members.

Independent advocacy services in general were characterised as having capacity-building functions by a number of participants, notwithstanding the particular model of advocacy employed. This is in large part because independent advocacy sets out to improve individuals' abilities to advocate for themselves in future, wherever this is possible. It is also because advocates aspire to model appropriate ways to be assertive and raise challenges, on the one hand, and appropriate ways to relate to excluded people, on the other.

Having summarised participants' descriptions of the contributions that independent advocacy can offer in situations involving ASP, the following subsections consider the most commonly mentioned factors impacting on advocates' abilities to fulfil these roles in practice. Four broad issues are discussed in these subsections: first, rates of referral to independent advocacy; second, awareness, understanding and attitudes towards advocacy amongst the statutory services; third, stage of referral and quality of ongoing communication with the advocate; and fourth, facilitators and barriers at strategic level.

### 3.3.2 RATES OF REFERRAL TO ADVOCACY

In the first instance, self-evidently, independent advocacy organisations need to be informed about a situation before they can begin to make a contribution to it. However, one or more participants in all of the six agencies expressed some concerns about the numbers of ASP referrals to independent advocacy received from the statutory services. Generally referrals were consistently lower, and sometimes had fluctuated more, than might have been predicted from the volume of ASP work undertaken in each local authority area overall. The reasons for low referral rates were generally felt to require more exploration. One participant would specifically like to know whether advocacy had been offered and refused, or never offered at all, in circumstances where no referral is received. Another would like to see a more robust system locally for holding council officers to account in relation to their duty to consider the importance of independent advocacy. This relates to a more general feeling that having "considered" advocacy might mean one of several things, and that explanations and offers of advocacy might be made in more or less helpful ways.

*"sometimes we're not sure what people are actually sharing about what it is we're doing. Or whether the staff are informed enough about our role."* [Interview 7]

*"Because advocacy's not required for ASP. It's required to consider it. ...And that's problematic. 'So we've considered it: No.' So I mean that might be obtuse. But you know, that is all that is required."* [Interview 2; Participant C]

Three participants described sections that had been introduced into their local authority's initial recording form, in which council officers were required to indicate if advocacy had been considered and/or offered, and to account for any decision *not* to offer advocacy. This was felt to be a positive development, notwithstanding the points raised above. Indeed, one of these participants went on to praise the commitment locally to involve the agency themselves when their services are being offered:

*"It's fine to tell people about independent advocacy, that's good. But we're more than willing going to speak to the individual about what it is we do. Because I think it's always better coming from us. They can still say no at that point. ...So, and they've agreed that they will offer people to meet with one of us from here, to explain the role."* [Interview 7]

Another participant whose local authority specifically reminds council officers about independent advocacy on its initial recording form questioned the effectiveness of this, however, citing several cases in which no communication had been received about the beginning of an ASP process, even where an advocate was already involved with the affected individual. This was thought to be linked to a recent re-organisation of systems in the local authority concerned, and had been raised with the relevant social work managers.

### 3.3.3 AWARENESS, UNDERSTANDING AND ATTITUDES TOWARDS ADVOCACY

For many participants, the wider issue linked to their concerns about referral rates was the understanding of independent advocacy, and feelings towards the involvement of independent advocacy, on behalf of some of their statutory colleagues. Although development activities associated with the implementation of the ASPSA were considered by some to have raised the profile of independent advocacy overall, two participants reported spikes in referral rates following their involvement in training or awareness-raising sessions, and substantial drops in referral rates during periods where such involvement had not been possible for a variety of reasons. Awareness and willingness to offer independent advocacy can quickly dip, therefore, without ongoing reminders.

Some participants were also aware of specific pockets of misunderstanding that they considered to be linked to some decisions not to offer advocacy:

*"We have heard that, occasionally, if a person doesn't have capacity, they don't think that advocacy would be suitable. So I've had to kind of have a conversation, that even if somebody's deemed not to have capacity, they still have a view, and it's still really, really important to find out ...what their view is, and have somebody support them to voice that. And even if they can't do that, having somebody independent there to safeguard them through the process is equally just as important."* [Interview 7]

*"it's not just these little meek, you know, people who just look at their toes and they never speak up in meetings, that's not the only type of people that we support. ...because they*

*maybe shout quite loud, that doesn't mean that they are assertive when they need to be in difficult situations. It doesn't mean that they feel comfortable in formal surroundings. ...perhaps there is a lack of understanding that you could just look at someone and instantly know: you would never need an advocacy worker."* [Interview 3; Participant B]

Participants in three interviews, in particular, argued that the individual themselves should always have the opportunity to accept or decline an independent advocate, rather than a judgement about need and/or suitability being made by professionals on the individual's behalf.

Alongside some misperceptions about the usefulness of advocacy to some "types" of people, participants were aware of a level of misunderstanding amongst some other professionals about their role and its usefulness in the context of the multi-disciplinary team. Some confusion was reported to arise where professionals could not appreciate that the view being represented by an independent advocate was not necessarily the advocate's own. Most frequently mentioned, however, was the resistance, even hostility, that can follow from a perception that independent advocates set out to be "challenging" or "adversarial", and/or that they make the work of the statutory services more difficult.

*"we're quite often seen as just a nuisance because it prevents things from happening in a certain way, because we're giving the client their options to make an informed choice."* [Interview 5; Participant C]

*"Advocacy can slow things right down. Because we're going at the pace of the advocacy partner. And necessarily sometimes that has to slow down. So in terms of people's workload, I can see why people go: Oh no, not [name of advocacy organisation]"* [Interview 2; Participant A]

Conversely, one participant had experienced some misperceptions about the ways in which independent advocacy might be expected to be *helpful*. Specifically, she felt that advocacy can sometimes be brought in once a relationship between an individual and a statutory worker has become difficult, on the assumption that the advocate might be better able to persuade the individual to do what the worker wants. Where individuals are more "malleable", on the other hand, this participant felt that advocacy might not be considered to be as valuable by the professionals involved. Unsurprisingly, both positions were held up by this participant as misrepresentations of the proper role of independent advocacy.

A number of examples of clear understandings and positive attitudes towards independent advocacy were also raised across the interviews:

*"it was a social worker based at the access point who has referred to advocacy, even before the interview, ...an individual who very much advocates advocacy. ..very much felt the importance of advocacy, getting advocacy in there from the beginning. Allowing the person to have a voice. Realised that the advocate – there wasn't the same conflicts as with other staff. ...It can happen. It depends on the individual."* [Interview 5; Participant C]

*“in that area, I’ve found there is a bit of resistance to advocacy. ...But there’s other sea-changes, in the hospital and that, where people saying: Oh it’s the advocate; and they accept us, and we get on with it.” [Interview 4]*

*“we work for quite a good local authority here. The staff are quite well aware of what our role is, and they believe that the individual has the right to have their voice heard through that process.” [Interview 7]*

Like the more negative experiences, these positive examples also underline participants’ perceptions that the ability of independent advocacy to offer a service in ASP situations hinges on the attitudes and beliefs of third parties in important ways. These attitudes and beliefs, moreover, were perceived to vary from worker to worker, from team to team, and from local authority to local authority.

#### 3.3.4 STAGE OF REFERRAL AND QUALITY OF ONGOING COMMUNICATION

In situations where independent advocacy is made aware of an ASP situation, the single most frequently mentioned barrier to providing a full service concerned the stage in the process at which this referral is received. The majority of participants cited common experiences of referrals received days or even hours before an ASP case conference. Because so much of the work of an independent advocate is preparation for meetings and “behind the scenes” support [Interview 8; Participant E], which depends for its effectiveness on establishing communication and trust, late referrals were repeatedly described as a significant barrier to accomplishing this work:

*“we can’t just turn up on the day and sit next to the person. Our role is to help them say what they want to say, or to help them understand what this is all about. And we can’t do that if we haven’t had the opportunity to see them beforehand.” [Interview 3; Participant B]*

*“They can have had the initial case conference, and it’s at that point they’ll say: Oh, maybe we should see if an advocate would be useful here. So, you know, a protection plan’s already been maybe discussed and put in place, without the person really being engaged in that, you know? Because they maybe didn’t have an advocate.” [Interview 1]*

Conversely, those participants whose other roles had enabled them to establish pre-existing relationships with certain individuals stressed how beneficial this can be when ASP processes then require swift advocacy input. These pre-existing relationships might have been established through support with other issues, for example, or through the individual’s involvement in collective advocacy groups.

Several participants described the elements of an advocacy service they were able to provide to individuals they had not had the opportunity to get to know beforehand. For instance, information can still be gathered, processes explained and rights to participation promoted at the initial meeting attended by the independent advocate. Participants also appreciated that workloads are heavy and timescales tight for statutory workers responding to ASP concerns. They emphasised the need for

referrals as early as possible, however. In addition, one participant questioned whether timescales always need to be so tight, where the result is a diminished opportunity to understand and participate in processes and decisions on the part of the adult at risk.

Alongside the issue of timing, participants also reported being helped or hindered in their role by the quality of the information provided in ASP referrals. Specifically, referrals were praised where clear information was forthcoming about the nature of the concern, any communication needs of the advocacy partner, and the dates, times and venues of any meetings scheduled. Conversely, referrals were felt to be problematic where omitted information prevented important discussions taking place before a meeting or case conference:

*“I can quite often get a referral and I’ve been given that the issue is financial abuse, so you talk to the person about their money, and about who helps with the money, and what do you like to spend your money on, and all those kinds of things. And then when you get to the case conference you discover that, yeah, there was some financial abuse, but actually the main problem is this. And I think – but you didn’t tell me that. So I’ve not been able to... I didn’t speak to my partner about that, because I didn’t know anything about it.”* [Interview 1]

Sufficient information is needed, then, to allow views about key issues to be explored before the point at which the advocate will help to represent them. Several participants also stressed that they need sufficient information to be able to explain the purpose of the meeting to their partner.

Participants also reported mixed experiences of the quality of communication from statutory services on an ongoing basis, to enable them to keep track of the progress of ASP processes in a given case. This was portrayed as a tricky area to negotiate in some respects, because the advocate’s entitlement to information is clearly linked to the mandate received from their partner:

*“I just find it sometimes difficult ...when the emails are flying back and forth, and everybody is cc-ed into the email. And sometimes – I shouldn’t know more than my client. And it puts me in a difficult situation. And I then have to say that to them.”* [Interview 8; Participant B]

Nevertheless, in the examples reported of greatest dissatisfaction with the quality of ongoing communication, participants drew links between their own exclusion and the ability of their client to be included, where that client had opted for advocacy support.

*“Make us aware that it’s being dealt with. We don’t need to be party to the detail, but to know it’s being managed, investigated, dealt with, or that it has been concluded, that type of very basic information would be helpful in itself. As a referring agency. Whilst still supporting the individual who may still be saying to us, you know, I have concerns about this.”* [Interview 5; Participant B]

C: *I suppose there is the bit that the advocate isn’t entitled to all the information. But it’s when you can’t even get the appropriate information to support your client through the process.*

B: *The client’s entitled to the information.* [Interview 5]

Concerns about ongoing communication were related to broader concerns about the transparency of ASP processes in some local areas, then, as discussed in section 3.2.1.4 above.

In circumstances where they struggled to access information, some participants linked this back to negative attitudes towards advocacy amongst some statutory colleagues:

*"I still haven't got any minutes from any of the ASP meetings. I've emailed a number of times to the lead person and had no comments back. ...It felt like advocacy was involved because it was a tick box exercise rather than because they really wanted, genuinely really wanted it to be in the best interests of the person, to be completely blunt I suppose."* [Interview 2; Participant B]

*"And you can't help but feel with some of the referrals, they really are tick-box referrals. As is evidenced by the extreme lack of desire to keep you in any part of the loop thereafter."* [Interview 5; Participant B]

Elsewhere, links were drawn between the quality of information-sharing and the commitment and support of individuals in key strategic roles:

*B: I'm just trying to think if it was at that time, when there was someone consistent in post.*

*A: And that's the lead officer role isn't it? Because at that point, the lead officer was really involved.*

*B: And things, communication was good, and the social worker really had a really good understanding of advocacy. And wanted that support. And the person wanted the support ...there was lots of good communication going on. And you always knew when meetings were, and you weren't the last to know and... if there's someone that's, there's a strong representative at the top then it all works out. [Interview 2]*

Just as the positive attitudes and facilitative practice of front-line workers was seen to support the role of independent advocacy in ASP situations, then, so the active support of individual members of more senior staff was frequently cited as a key facilitative factor. This point is taken up again below.

### 3.3.5 FACILITATORS AND BARRIERS AT STRATEGIC LEVEL

The benefits to independent advocacy of strategic activities such as engagement with local area forums and Adult Protection Committees were emphasised by several participants, particularly those who were managers of their respective agencies. Strategic engagement was reported to have helped maintain the profile of independent advocacy amongst senior stakeholders, facilitated discussions about referral protocols and other information-sharing issues, and allowed some of the agencies to contribute to multi-agency ASP training. Support at senior statutory level was also reported in one interview to have made a difference, where a provider organisation was particularly resistant to the presence of independent advocacy:

*“[The manager] tried to limit both the times that we could see people and who was with the residents when we saw them. But we wouldn’t accept that, and we had the support of the ASP professionals, the social workers, the team leaders, the lead officer – so that was very empowering for us – that we could then say, well actually, no. We will see the residents when it suits the residents.”* [Interview 2; Participant A]

As noted above, these facilitative relationships and levels of strategic representation were frequently associated by participants with the support and commitment of particular individuals in senior positions within their local councils:

*“The person who was taking the lead was very good and understood advocacy, and we met very early [on] with her.”* [Interview 2; Participant A]

*“I think one of the things that has been fought for for quite a long time by the ASP co-ordinator in [place] is to have independent advocacy represented on the committees and that. And that’s only really happened in the last year. ...And it was through her kind of continually saying: We should have independent advocacy on here. Because she’s very pro-independent advocacy ...she really believes in the process, in people’s choice and that.”* [Interview 3; Participant A]

*“And the training officer is also very advocacy-friendly. Hence the fact we have a slot in the training. So we’ve always, we’ve deliberately fostered that relationship, but we didn’t really need to bang on doors to get in there.”* [Interview 9]

Problems were reported, conversely, where supportive individuals moved on or these posts remained unfilled. Nevertheless, two participants commented specifically on the level of support and commitment to independent advocacy that they felt existed at strategic level in their respective local areas overall. One further participant was less convinced that voluntary organisations were yet accepted as “full” partners at this level in her location. Alongside less inclusive attitudes, the resource issues that act as barriers to the involvement of smaller voluntary organisations in strategic forums was speculated to play some role in this.

In participants’ consideration of the barriers and facilitators of independent advocacy input into ASP situations, a number of further references were made to funding, capacity and related issues. First, some specific pieces of work were noted to be constrained by a shortage of time or other resources. For example, Interviewee 4 felt that a more sustained relationship with one of her partners would enable a fuller insight to emerge into the suspected undue pressure being exerted by a harmer, to the benefit of the partner and the ASP process. However, alongside some other complicating factors, constraints on this participant’s time rendered it difficult to build such a relationship:

*“And because we’re issue-based, it’s always, what is the issue? Well the issue is: this is what’s happening, this is what they want to do – what do you want to happen? How do you feel about it? So it’s not, there’s not been that – although I’ve been supporting her on and off for years, there’s not been that longevity of, let’s build up this relationship and really, you know, work out what it is. ...I don’t know if I would have the time. I guess that’s what it comes down to.”* [Interview 4]

Another participant reported difficulties establishing the level of communication and trust required to advocate effectively, where a client requires an interpreter. Again, further difficulties are involved here, not least the complications of building a relationship via a third party. However, the absence of interpreters for any more casual contacts outside of formal meetings was reported to be a significant barrier given, again, the background work intrinsic to the advocacy role.

The complexity and time-consuming nature of many pieces of ASP work, in general, was mentioned by several participants. The tight timescales noted to be associated with many referrals, moreover, was characterised as contributing to impacts on other work.

*“I’m going to have to say to her, so she can try to get to see her before the Monday. Case conference at 3 o’clock. And I don’t know what her diary’s like this afternoon or what it’s like Monday morning. So she’s going to have to completely re-jiggle stuff about. Even just to get to meet this person initially.”* [Interview 7]

*“because it’s ASP ...that is a higher, a higher factor of being involved with somebody. ...I have to push something to one side to fit that in.”* [Interview 6]

A number of participants also noted the resource implications of their involvement in awareness-raising activities, training, and indeed on area committees and subcommittees, notwithstanding the advantages unanimously felt to arise from activities like these.

Three of the agencies had received some additional funding to assist with increases in workload associated with the ASPSA, though agencies covering more than one local authority area had not necessarily received funding from each area in which they work. Where no additional funding had been made available, this was reported to have had a range of impacts. For instance, there were short-term capacity implications in one agency when ASP referrals started coming through; however, these have lessened as referrals have steadied out, as experience has built up and as volunteers have increasingly been brought on board to undertake some of this work. Two further participants in different locations reported being able to manage their levels of ASP work currently, but had some concerns about future capacity, given how many more referrals they felt that they *should* be receiving (see section 3.3.2.1 above). Another participant raised more general points about the flexibility associated with different agencies’ funding arrangements, in respect of the type of work they were able to take on. She contrasted a relatively wide remit, in her own area, with the position elsewhere:

*“We work with anybody who is a health or social care user. ...and part of our specification is that we can provide it with volunteers. The only thing we can’t do is collective or peer advocacy. One-to-one, but volunteer generic advocacy, funded alongside the statutory advocacy. And I think that’s quite unusual nowadays. People have been finding the generic advocacy getting kind of squeezed or dropping off service specifications.”* [Interview 9]

This participant stressed the “community development aspect” of independent advocacy provided by volunteers, in particular. The value she placed on “generic advocacy” also echoes themes from

other interviews about the preventative role of independent advocacy, its broad functions to safeguard rights, and the problems associated with a focus on “protection” issues and procedures defined only in the narrowest of senses.

Three of the agencies were situated in areas where a contract to undertake certain kinds of advocacy work, including ASP work, had been put out to tender. In some areas this had resulted in particular local advocacy agencies receiving ongoing funding and others experiencing a drastic reduction of funds or being forced to close. Participants in one area in particular were deeply concerned about the specifications for ASP work that had been set out in the tender issued locally. This had specified a maximum of three “contacts” with the individual in any given ASP situation, over a maximum period of three months. This “time-limited crisis management” model [Interview 2; Participant A], was thought potentially to be appropriate to some kinds of work under mental health legislation, but to be inappropriate to many kinds of situations falling under ASP. Its in-built time restrictions, together with the absence from the contract of any independent advocacy support unless the work was “statutory”, was felt to reflect the priorities of procurement officers who neither understood advocacy nor had consulted adequately with users of advocacy services:

*“...we had lots of people who were really keen [to attend a consultation event] and they didn’t tell them ...which workshop they got to. So they missed one whole lot because they were waiting for confirmation of which workshop. So then a whole group of people who were going to go to the nearest one had to go from [town] to [town], which meant them taking two buses. They set off really early in the morning; got there; it was eleven o’clock. And they phoned us at quarter past, saying: That’s it. They were out at the bus stop at quarter past. And they didn’t understand what the consultation was about.” [Interview 2; Participant A]*

A: *And we had a citizen advocate who went along to the [town] group, and who had a similar experience of very limited time there, and also it was a multi-client group. So the people with mental health problems who, really, spoke for most of the meeting. In which case he didn’t have a chance to talk about the importance of citizen advocacy.*

C: *And to be fair, the tender included people with mental health issues. And so it was right that they got the chance to talk.*

A: *Absolutely.*

C: *But the dynamics of the different client groups didn’t work in one meeting. [Interview 2]*

*“It felt like they’d already decided what was going to be within the tender. And it was going to be legislative-based.” [Interview 2; Participant B]*

As a result of these “horrendous”, “box-ticking” consultation exercises [Interview 2; Participant C] and a conception of independent advocacy as only actually *required* within certain narrowly-defined types of “statutory” process, these participants felt that the movement’s grass-roots principles had been under-acknowledged. Furthermore, where agencies had been successful in sourcing funding for alternative models of practice from elsewhere, there was a fear about the emergence of “tiered advocacy provision” [Interview 2; Participant A]:

*“...so if you fit within one of our projects, we’ll work with you for as long as it takes. And hopefully you’ll end up at the end of the process, if not more empowered, ...at least you’ll have been involved in the process. And so that’s one level. And then another level we have the contract. You’ll have had three visits, you know, bish bash bosh, it’s out. And for me... it should be the deluxe model. If you’re going through these processes, that are already so complex, and have such a huge impact on your life... should it not be the other way round?”*  
[Interview 2; Participant A]

Instead, however, those with a contract to deliver ASP support were thought to be left “working around” specifications that did not truly represent best practice, in this local area at least. Meanwhile, the broader scope of independent advocacy to prevent harm and safeguard people in a more holistic sense was being overlooked and underfunded.

### 3.4 IMPACTS OF ASP: CONTINUITY AND CHANGE

As noted in Chapter 1 above, a number of hopes and fears accompanied the passage of the ASPSA in 2007. Some of these hopes and fears were less about the detail of implementation in individual cases than about the direction in which care and support services for adults were seen to be moving with this increased emphasis on protection issues overall. Specifically, there were hopes that dangerous gaps in available safeguards were being plugged, and fears that developing ideas about “vulnerability” and “protection” were a vehicle of discrimination and/or a facilitator of increasingly risk-averse practice. There were also some unknowns in terms of the impact of the developments on a range of organisations, not least on independent advocacy organisations, their relationships with statutory agencies and their own work to safeguard people’s rights.

Accordingly, participants across the interviews were asked for their views about impacts in these broader terms. A number of further points were raised, some of which build on and consolidate the above discussion. This final section of this chapter summarises what participants considered to have changed and what they considered to have remained the same, with the rise of ASP as a key statutory concern. The first of two subsections considers perceived change and continuity in relation to support services for adults in general. The second subsection considers impacts in relation to independent advocacy in particular.

#### 3.4.1 IMPACTS ON SERVICES TO ADULTS

As noted in section 3.1 above, ASP developments were characterised by all participants as positive ones for adult health and social care services, in principle at least. Some explicit advantages were listed: for example, strengthened expectations that certain issues will be taken seriously; an ability on behalf of local authorities to react more quickly to concerns; and strengthened frameworks for multi-agency partners to respond in some kinds of situation, particularly situations of financial abuse

and large-scale institutional abuse. ASP processes and interventions were also characterised implicitly as a route, or potential route, to helpful inter-agency collaboration and improved services and supports. This was a common characterisation, even where practice was not perceived to have changed significantly and/or to have delivered these hoped for benefits on the ground. Indeed, several participants did not consider ASP to have impacted on practice very much at all. At one end of the scale, this was because the legislation was felt not to be being implemented properly in some local areas: for instance, where situations felt to meet the three-point criteria were not being channelled into ASP processes. At the other end of the scale, it was because good collaboration, strong supports and person-centred attitudes amongst statutory workers were already felt to have been in place locally, prior to the rise of ASP.

An interesting variation on these views concerned perceived limitations of the impact of the ASPSA linked to difficulties with the boundaries of its focus. That is, improvements in inter-agency collaboration and strengthened supports for individuals were welcomed where they had occurred, but their restriction to individuals fitting the three-point criteria was thought to be unhelpful. Interviewee 7 gave the example of individuals whose allegations, though established to be unfounded, were made in good faith and linked to their mental distress [see section 3.2.4.2 above]. Interviewees 1, 7, 9 and 10 argued that better inter-agency working and/or lower level supports elsewhere could help address many concerns long before the need to resort to ASP processes. Interviewee 6 also linked many harmful situations with the long hours, poor pay and frequent turnover of support staff in services for adults. There is a sense from perspectives like these that an over-focus on formal ASP processes and the provisions in place specifically for those who meet their eligibility criteria may start to miss the point of the origins of many forms of harm.

Notwithstanding the generally high degree of support for ASP developments in principle, some participants also reflected on situations that met the three-point criteria, where they felt that the provisions of the ASPSA had limited potential to help. The questionable effectiveness of banning orders in situations where the adult at risk struggles to contribute to their enforcement was mentioned several times in this regard. Interviewee 4's example of the woman who could not be protected from exposure by her brother to dangerous street drugs [see section 3.2.3.1 above] also prompted reflections on the ASPSA's "lack of teeth". In all of these examples, however, participants also acknowledged the difficulty of balancing rights and risks, and wariness of excessively restrictive intervention powers was also frequently expressed.

There was no indication from any participant that the ASPSA, and the associated rise in emphasis on ASP work and ASP issues within the statutory services, had led to a changed approach to risk within these services. Unhelpfully risk-averse attitudes were certainly described by some participants in some circumstances. However, like the more facilitative approaches discussed in other places and types of situation, these attitudes were unanimously felt to have pre-dated ASP. ASP was seen rather to be a tool, to be put into use by the statutory services in more or less helpful ways, dependent in part on these pre-existing ways of thinking. A number of further factors were also

perceived to play a role in the way this tool is used. Interviewee 3A, in particular, felt that the pressure of high caseloads and limitations on the discretion of front-line statutory staff can militate against its use in person-centred ways.

Alongside attitudes towards risk within the statutory services, some participants linked the effectiveness or otherwise of ASP developments with attitudes towards disabled people, older people and people with mental health problems in society at large. People will be adequately safeguarded, that is, only when society accepts, values and works together to safeguard them. Interviewees 6 and 10 noted some positive developments in societal attitudes over the course of their careers, though Interviewee 10 in particular felt that these changes are not happening quickly enough. Again, developments in ASP were not thought to be causal factors in these types of changes. Interviewee 6 characterised the ASPSA as symptomatic of some of them, however, and awareness-raising activities as specifically helpful in feeding in to a culture of greater respect and self-assertiveness, at least in her own field of learning disability:

*“...historically... if something was happening you usually kept quiet. Because it was – occasional. Or even if it was regular, people put strategies into place to deal with it. ...the whole ethos of standing up for yourself, even if you need somebody to help you, is much more prevalent now. Rather than doing as you’re told. So it’s ok to say something.”*

[Interview 6]

Participants in interviews 8 and 9 also felt that ASP developments had led to helpful increases in awareness of harm and abuse amongst service providers and/or the public more generally. Interviewees 9 and 10 particularly emphasised the further work required to raise public awareness, however, and Interviewee 10 felt that public confidence in the likely state response will also need to be developed before referrals come to be more routinely raised.

### 3.4.2 IMPACTS ON INDEPENDENT ADVOCACY

The passage of the ASPSA and associated developments in policies, procedures and, indeed, in commissioning practices within local authorities and health boards had had a range of impacts on the participating organisations in respect of resource issues, as discussed in section 3.3.2.4 above. All had seen some impact on the referrals they received, though the detail of these impacts varied. All had some concerns about referral practices to independent advocacy in ASP cases amongst their statutory partners. Nevertheless, several participants also noted the opportunity that the ASPSA had delivered to raise the profile of independent advocacy, and felt that their services were more likely to be drawn upon than before the passage of this legislation. Clearly there are some foundations of positive change here, then, alongside some implications for ongoing development.

As emphasised in sections 3.1 and 3.4.1, participants unanimously portrayed the spirit and aspirations of the ASPSA, if not always its implementation in their local areas, as compatible with the

aspirations of their own work. Just as ASP processes and interventions were seen to function as a tool for use by the statutory agencies, therefore, so they were sometimes portrayed as a tool for use by independent advocates and their clients in furtherance of their own work to safeguard rights:

*“It’s an extra forum to take things to.”* [Interview 5; Participant D]

*“the way it allows you to define risk, I think is of assistance. And it also, having a structure there that you can take advantage of if you become aware of something. Whereas before it would have been a conversation with a care manager, and the result of that would have been, depending on how good that relationship was with him, and all the rest of it. But I think it now allows you to go: Right, well, using how these things are defined as ASP, I’m identifying that this is here. ...I feel that this behaviour, or this set of circumstances, is putting my client at risk. And I think we need to talk about it in those terms.”* [Interview 8; Participant A]

Interviewee 8D also talked specifically about using ASP processes to raise concerns about providers’ risk-averse practices, where these were felt to be becoming harmful in themselves.

In relation to the impacts on a grassroots movement of increasing recognition, closer relationships and the growth of particular types of demand from the statutory services [see Chapter 1], participants expressed some slightly more mixed views. In the first place, it was noted by some participants that the impacts on independent advocacy of incorporation into statutory frameworks had been felt most significantly with the passage of the Mental Health (Care and Treatment) (Scotland) Act 2003 (the MHCTSA), rather than with the passage of the ASPSA *per se*. Nevertheless, a number of the interviews touched on the impacts of increases in “statutory” or “legislative” work in more general terms. The commonest perspective on these developments was that they have not affected the nature of independent advocacy:

*I: Do you think that the kind of rise of ASP as something that’s had more and more attention to it, has had any impact, either positively or negatively, on your ability to fulfil those functions?*

*A: No. Not at all, no. We just continue to do what the people we support ask us to do. Whether it be an ASP meeting or any other meeting.”* [Interview 7]

*“I think advocacy is advocacy in whatever situation it is... when you come down to the basis and the purest form of what it is: it’s other people’s views. And making sure other people understand and that kind of thing. So that doesn’t change whatever you’re doing. And whatever situation you’re in.”* [Interview 3; Participant A]

In particular, whilst increasing demands to undertake work on a crisis basis were very commonly noted, this was most usually viewed as a practical problem to be addressed by changed procedures and a better understanding of the advocacy role on the part of the statutory services, rather than as a driver of a changed model of independent advocacy.

One participant who did consider independent advocacy to have evolved in line with its contribution to more statutory work felt that these changes were positive ones:

*“I think the major change had already happened with the Mental Health Act. You know, things became more formal. We did get a better set of guidance and guidelines and, you know, we’ve got the principles and standards through the SIAA<sup>4</sup>. Whereas before ...it was all a bit disjointed. And there were more organic types of advocacy organisation. There was a lot more of the volunteer advocacy, a lot more of the citizen advocacy. And I think with the Mental Health Act, everybody stepped up a gear. And working within those sort of agreed guidelines for advocacy organisations, and working within the spirit of the Mental Health Act ...helps us be really clear about what we need to be doing. And what the boundaries are.”*

[Interview 9]

Participants in one further interview, by contrast, feared that the central tenets of independent advocacy as they understood them are under some degree of threat, particularly the basis of advocacy in relationships and its person-centred principles. This threat was seen to emanate from specifications for “legislative-based” advocacy such as those set out in the tender issued locally [see section 3.3.2.4 above]. Tellingly, these overwhelmingly negative experiences of “the tail wagging the dog” [Interview 2; Participant C] led participants in this interview only to debate the wisdom of pressing for statutory rights to advocacy in ASP situations, similar to those set out in the MHCTSA. Participants in three other interviews, by contrast, argued unequivocally that the duty to “consider the importance of providing” independent advocacy in the ASPSA does not go far enough, and that there ought to be a right to advocacy laid down in this legislation too.

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<sup>4</sup> Scottish Independent Advocacy Alliance

## 4 CONCLUSIONS AND IMPLICATIONS

In this final chapter, the findings of the project are summarised and their implications discussed. Section 4.1 addresses participants' views about ASP and the involvement of independent advocacy in ASP. It incorporates some messages for inter-agency policy and practice. Section 4.2 considers the barriers encountered by the project in gathering the views of people who use services directly. It includes some thoughts about directions for future research.

### 4.1 VIEWS ABOUT THE ASPSA AND ITS IMPLEMENTATION

The project was prompted by a lack of existing research into the views of independent advocates about ASP. It was also born out of early speculations that the ASPSA might usher in not only a new set of formal duties, proceedings and powers, but also a changed perspective on risk. That is, some critics feared an increase in risk-aversion amongst the statutory services with the increasing currency of the idea of the "protection" of adults. Had the ASPSA heralded an increase in attention to physical safety, for instance, at the expense of relationships and choice, the safeguarding activities of the statutory services and the broader work of independent advocacy to safeguard people's rights might be expected to find themselves in escalating tension.

Participants in this study, however, had not experienced a significantly changed approach to risk with the advent of the ASPSA. Rather, ASP was characterised as a "tool", which was being used in more or less positive ways according to agencies' and workers' pre-existing approaches to risk. These approaches might exist in some degree of tension with independent advocacy's values, then, but the spirit of ASP was not characterised to do so. On the contrary, a number of participants talked of drawing on ASP processes to promote their partners' rights in situations that they felt had been inappropriately handled by the statutory services.

In describing and evaluating their and their partners' ASP experiences, then, and in making suggestions for further change, participants did not tend to raise disputes with the direction of legislation and national policy *per se*. Instead, they raised issues of implementation. A picture emerges from their observations of wide variations in implementation by local authority area. In particular, different experiences were reported in respect of:

- Clarity of ASP referral procedures;
- Openness of the statutory services to discuss concerns and take them forward;
- Level of *disinterested* scrutiny seen to be accorded to ASP concerns;
- Communication with the adult at risk and their independent advocate: at referral stage, throughout the ASP process and at its conclusion;

- Support and adjustments in processes and practices, to enable the adult to participate as fully as possible;
- Availability and use of resources.

Participants were well-placed to draw links between these variables and the qualitative experiences of adults at risk. For instance, the impact of the size and setting of meetings on the adult was repeatedly emphasized. These types of findings are supported by previous research (Altrum Risk Research Team 2011, Improving ASP Participation Project Team 2013, Scottish Government 2014). Participants also offered insights into what specifically had made the difference, where ASP processes were thought to have resulted in positive outcomes. Strong multi-agency collaboration, availability of resources and a degree of flexibility in the allocation of those resources were particularly emphasised in this regard.

The research has demonstrated the richness of the insights that independent advocacy organisations have into ASP processes, practices and outcomes in the areas they serve. It has also given some indication of the connections that need to be examined in each local context, in order to make the fullest use of this source of feedback. In particular, views about ASP work in a given local area, views about statutory care and support services to adults in general in that area, and hopes about the difference that the ASPSA could or could not be expected to make, were intertwined for these participants in a range of ways. This finding is in line with previous research about the different meanings associated with the idea of “ASP” (Sherwood-Johnson 2014). Some participants reported strong links with their local inter-agency ASP partnerships, which would enable their feedback to be heard and discussed with due attention to these rich connections. Other partnerships might engage with independent advocacy organisations more closely and capitalise on their feedback more.

One prominent example of the importance of attention to context was the suggestion from some participants that inadequacies in non-ASP work and/or services underlay some of their *positive* feelings about ASP. Specifically, efficient multi-agency collaboration, full communication with the individual at risk, enhanced access to resources and flexibility in the use of those resources, were implied at times to stand in contrast to particular individuals’ experiences of services before and/or after ASP intervention. Indeed, the absence of these elements at an earlier stage was implied to have contributed to the escalation of some instances of harm. This points to the need for mainstream services to be adequately funded, and for mainstream workers to be adequately supported to practise creatively and work positively with risk, if harm is to be comprehensively addressed.

The experiences of ASP of adults whose own decisions are judged to be harmful or risky might serve as a further example of some of these connections. Experiences and outcomes of ASP processes for this group of adults were commonly reported in negative terms, even in local authority areas where participants spoke highly of ASP work overall. Further discussion with a full range of stakeholders, including people who use services and carers, and further, more targeted research might usefully

address ways to improve ASP services in this type of circumstance. It is worth noting the suggestions of participants in this research, however, that the support offered *prior* to such situations reaching the point of entering ASP systems would likely be the locus of most effective change.

Furthermore, the conceptualisation of ASP processes as essentially a route to better co-ordinated and better resourced support led to some questioning of the fairness of the three-point criteria. Participants recounted several examples of individuals thought to be disadvantaged by these criteria, whose needs were apparently not being met elsewhere. Some further mapping of these “cracks and gaps” would help in the planning of responses to these issues, either by ASP committees and/or by other bodies.

#### *4.1.1 INDEPENDENT ADVOCACY AND ASP*

One particular aim of the project was to explore the involvement of independent advocacy in ASP work, and to examine any perceived impacts of the ASPSA on independent advocacy agencies and roles. Consistent with their overarching support for ASP legislative and national policy developments, participants expressed unanimous commitment to partnership working in the spirit of the ASPSA. Again, however, different experiences were reported in relation to some factors felt important to facilitate this aim. In particular, understandings of advocacy and attitudes towards advocacy amongst the statutory services were reported to vary significantly, and to significantly impact on advocates’ abilities to fulfil their roles. Inter-agency ASP partnerships might wish to seek some particular feedback about this issue locally. Local advocacy projects might also be well placed to assist in addressing any identified gaps in knowledge, understanding and joint working arrangements, if they have not already been invited to do so.

Other reports of barriers to fulfilment of the advocacy role were highly consistent across participants and/or participating agencies. In particular, concerns about lower than expected rates of referral to independent advocacy, and concerns that many referrals are made when ASP processes are already far advanced, were common to all participating agencies. Some national-level discussions might complement local adjustments to address these common issues. For instance, it was suggested by some participants that statutory workers might overlook independent advocacy because they are struggling to meet tight timescales. The tightness of these timescales, and the workload of overburdened front-line staff, might be thought to have their roots beyond the local level.

In addition to the difficulties caused by late referral, further issues of time and resources were raised by some participants. The different degrees of emphasis placed on these issues were related in part to the different roles of participants within their respective advocacy agencies. They were also related in part to the different funding and commissioning issues experienced in their respective locations. In one location, for instance, there was a specific conflict between local commissioning

practices and independent advocates' own understandings of best advocacy practice. In other locations, meanwhile, participants made more general observations that ASP work is resource-intensive, that more time and resources would lead to better support, especially in complex and entrenched situations, and/or that more resources would be required should ASP referrals to advocacy rise, as it is hoped and expected that they will. These concerns about levels of funding in light of increased demand have echoes elsewhere (Scottish Independent Advocacy Alliance 2012). Furthermore, in those areas where "issue-based" advocacy was provided for most ASP situations, several participants emphasised the importance of more open-ended models of advocacy, which were also funded in their local areas, and to which some adults who had gone through ASP processes could ultimately be referred. Open-ended advocacy relationships were felt to have important preventative and community capacity-building functions, and local funding decisions that de-prioritised such projects were felt to be short-sighted. These points link back to the broader observations summarised above, about the connections between quality of mainstream services and the prevention of harm.

## 4.2 THE VOICES OF PEOPLE WHO USE SERVICES

Recruitment of people who use services into studies about ASP is a long-standing practical and ethical challenge. Systems of research governance at national level and within organisations and academic disciplines rightly raise questions about research activities that risk re-traumatising adults who have been abused (e.g. BSA 2002, JUC-SWEC 2015). This is particularly the case where capacity to consent to their involvement in research might also be lacking. In the absence of any independent organisations of people who are or have been subject to ASP procedures, access to research participants with this type of experience must also be brokered by third parties operating under their own sets of practical and ethical constraints. Where this has been done successfully, it has tended to be done by statutory ASP agencies. However this does raise some questions about the diversity of experiences represented (Unity Service Users and Carers Group 2013).

Accordingly, this study incorporated a time-limited pilot exercise, to explore the possibility of independent advocacy involvement in identifying research participants amongst the people they support. All participants were asked if there were individuals or groups receiving support from their projects, who might wish to participate in this small-scale study. Personal involvement in ASP processes was stipulated not to be a condition of participation, because change and continuity within services more widely, particularly with respect to approaches to risk, fell within the study's sphere of interest. However, no advocacy agency felt able to identify and approach potential participants, despite consideration by the agencies and a willingness to assist in principle. Future research agendas can usefully be informed by this pilot exercise. Hence the reasons for its foundering are discussed below.

In the first place, participating agencies felt unable to approach adults who did have personal experiences of ASP processes. This was for practical and ethical reasons similar to those referenced above. Participants noted that some individuals they had supported through the ASP process would not have the capacity to understand a request to participate in research. Some might not remember their experience of ASP, for instance because they had dementia which was now more advanced. Some might experience a request to participate as the re-opening of old wounds. Moreover, because many advocacy relationships had been drawn to a close following the conclusion of the ASP process, an approach for consent to participate in research frequently would have meant re-engaging with an individual who was no longer receiving advocacy support. This would in itself be problematic for a service that ordinarily requires a mandate from the individual in order to become involved.

In the second place, the advocacy agencies did not feel able to identify individuals or groups who might have participated, despite a lack of personal experience of ASP processes. Given these agencies' own views that the ASPSA has had limited broader impacts, this might have been because the research topic was felt unlikely to resonate with the experiences and concerns of people who use services more widely. Further collaboration with independent advocacy organisations and/or people who use services might help to frame more useful research questions. Different ways might be found to continue broader conversations about risks and rights, for instance, building on previous collaborative research (e.g. Altrum Risk Research Team 2011). The combination of the impacts of a raft of recent legislative and policy changes might provide a more meaningful subject for exploration than the impact of the ASPSA alone. With sufficient time and resources, in short, there is considerable potential to refine future research agendas in productive ways, based on this and other studies and pilot exercises.

It should be noted in conclusion that some of the participating advocacy agencies were already involved in gathering feedback from individuals about their ASP experiences, as part of local service evaluation mechanisms. This model of accessing feedback for the purposes of inter-agency self-evaluation was highly valued by these participants. Broader scale research cannot replace this activity; it works to different aims. These include the comparison and contrast of different models of implementation (c.f. Norrie et al. 2014) and the consideration of cross-cutting themes and questions of context, as raised by this report. Notwithstanding this distinction, discussions between advocacy organisations already involved in gathering local feedback might prove especially fruitful in informing future research agendas.

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