# Trainer notes – Module: 2a – Adults – Early intervention and emerging concerns

* PowerPoint of module
* Everyone should have the Wales Safeguarding Procedures App on phone or tablet to refer to throughout the module
* Handout: Consent of adult at risk

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| Slide | References | Notes  |
| 1 | Section 2: The duty to report an adult at risk of abuse and/or neglect <https://safeguarding.wales/adu/index.a2.html>> Seeking consent to a reportGathering information to make a report <https://safeguarding.wales/adu/a2/a2.p13.html>Pointers for Practice: Seeking consent <https://safeguarding.wales/adu/ap/a2p.p4.html>Pointers for Practice: Assessing Mental Capacity<https://safeguarding.wales/adu/ap/a2p.p5.html> |  |
| 2 |  | Trainer to point out:When seeking consent to a report, the best interests of the adult at risk must be the overriding consideration in making any decisions whether to seek consent prior to making a report.  |
| 3 |  | Slide highlights word:Voluntary  |
| 4 |  | Slide highlights word:Informed  |
| 5 |  | Slide highlights word:Freedom**Having freedom means** you are **not**:* being subjected to **violence**
* being subjected to **fear** **of** immediate violence against you or another person
* being **unlawfully detained**
* being **intentionally deceived** as to the nature/purpose of the act
* intentionally convinced the other person is someone else (**consent via impersonation)**.
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| 6 | Trainer to direct to the app:Pointers for Practice: Assessing Mental Capacity<https://safeguarding.wales/adu/ap/a2p.p5.html>Capacity of adults at risk to give consent <https://safeguarding.wales/adu/a2/a2.p13.html> |  |
| 7 | Mental Capacity Act 2005 <http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf> |  |
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| 10 |  | **Mental capacity**The Mental Capacity Act 2005 Section 1 sets out five statutory principles that underpin the legal requirements in the Act.These are:* A person must be assumed to have capacity unless it is established that they lack capacity
* A person is not to be treated as unable to make a decision unless all practicable steps to help him or her to do so have been taken without success
* A person is not to be treated as unable to make a decision merely because he or she makes an unwise decision
* An act done or a decision made, under the Act for or on behalf of a person who lacks capacity must be done, or made in his or her best interests
* Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action.
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| 11 | Trainer to direct to the app: Pointers for Practice: Assessing Mental Capacity<https://safeguarding.wales/adu/ap/a2p.p5.html> Capacity of adults at risk to give consent <https://safeguarding.wales/adu/a2/a2.p13.html> Awgrymiadau Ymarfer: Asesu Galluedd Meddyliol<https://diogelu.cymru/adu/ap/a2p.p5.html> Galluedd oedolion sy’n wynebu risg i gydsynio<https://diogelu.cymru/adu/a2/a2.p13.html>  | A person **has capacity** if they have the ability to use and understand information to make a decision, and to communicate any decision made. A person **lacks capacity**iftheir mind is impaired or disturbed in some way that means they're unable to make a decision at that time. **This includes:*** under the influence of a substance capable of causing or enabling you to be stupefied or overpowered
* **asleep** or otherwise **unconscious**
* **unable to communicate** due to a disability.
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| 12 | Trainer to direct to the app:Pointers for Practice: Assessing Mental Capacity<https://safeguarding.wales/adu/ap/a2p.p5.html>Awgrymiadau Ymarfer: Asesu Galluedd Meddyliol<https://diogelu.cymru/adu/ap/a2p.p5.html> | Fine professional judgements are required where an adult at risk is experiencing, or is at risk of abuse or neglect, and they have needs for care and support.**Consideration must be given to:*** mental capacity with regard to the five principles within the Mental Capacity Act
* the likelihood of duress
* the nature and effect of the needs.
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| 13 |  | Trainer to expand:In order to make a decision some adults at risk may require additional support such as advocacy, simplified explanations, visual aids and additional time. They are entitled in law to receive this support. Mental capacity is specific to a particular decision at a particular time. This means a person may have capacity to make some decisions but not others or may be able to make decisions on some occasions but not others. |
| 14 |  | The Act does not attempt a definition of best interests – which is certainly impossible given the infinitely variable circumstances, which can arise. Instead, Section 4 sets out a framework for making a decision in someone’s best interests.You should consider ‘all relevant circumstances’ which is defined under Section 4(11) as those which the person making the determination is aware, and which it would be reasonable to regard as relevant. The statute provides further guidance about what is likely to be a ‘relevant circumstance’, such as whether it is likely that the person will have capacity at some time and when that time is likely to be.You must so far as is reasonably practicable permit and encourage the person to participate or improve his ability to participate as fully as possible in the decision making process. |
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| 17 | Handout:Consent of adult at risk |  |
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| 19 | For more information, see: **General Data Protection Regulation (GDPR)** and relevant protocols <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/> | The **General Data Protection Regulation (GDPR)** gives individuals greater control over their own personal data. However, it **does not** give them the right to prevent agencies sharing information **when there are concerns about an adult at risk**.The need for consent to share data **does not apply** if it meets the “serious harm test” – that is, if *not* sharing the information would be likely to cause **substantial injury or loss** to the **physical or mental health** of any individual.  |
| 20 |  | If, having taken account of the adult’s wishes, it is still considered that there is a need for a report their wishes may be over-ridden: * the reasons for proceeding without consent must be recorded
* social services should be informed that the adult has not given their permission
* the adult should be informed by the referrer that a report has been made despite their wishes.
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