

Multi-Agency Protocol for Managing Self- Neglect

This protocol provides a framework for practice, in cases of self-neglect that do not fit the criteria of the West and North Yorkshire and York Multi-Agency Safeguarding Adults Policy and Procedures.

April 2016

1. Introduction

1.1 Managing the balance between protecting adults at risk from self-neglect against their right to self-determination is a serious challenge for services. Working with people who are difficult to engage can be exceptionally time consuming and stressful for all concerned. A failure to engage with people who are not looking after themselves, whether they have mental capacity or not, can have serious implications for their health and wellbeing of the person concerned and the staff of agencies involved with the individual.

1.2 This protocol offers guidance to operational staff and managers on how the needs or presenting problems of difficult to engage adults at risk should be addressed. It suggests multi-agency partnership working to determine the most favourable approach for achieving engagement with the adult at risk in conjunction with a support plan for delivering the agreed goals to achieve the best outcome or solution.

1.3 In the majority of cases, the Person Led Assessment/Care Programme Approach, review and risk assessment procedures should be the route to provide an appropriate intervention in situations of self-neglect.

1.4 The situations that give rise to the most concern are those where an adult at risk refuses help and services and is seen to be at grave risk as a result. If an agency is satisfied that the adult at risk has the mental capacity to make an informed decision on the issues raised, then that person has the right to make their own choices. However, the agency should assess the risk and determine whether intervention needs to be considered. In some cases it may be necessary to override the person's right to choice and hold a multi-agency meeting.

1.5 In conjunction with the West Yorkshire and North Yorkshire Multi-Agency Safeguarding Adults Policy and Procedures, it is important to remember that:

Self-neglect on the part of an adult at risk will not usually lead to the initiation of safeguarding adult procedures unless the situation involves a significant act of commission or omission by someone else with established responsibility for an adult's care.

1.6 This protocol will apply where an adult at risk has been identified as having been subject to serious self-neglect which could result in significant harm

And

They have the capacity to make the relevant decisions but have refused essential services or interventions which could result in significant harm

And

The Person Led Assessment/care programme approach has not been able to mitigate the risk of 'this serious self-neglect which could result in significant harm'.

1.7 This protocol embodies the Safeguarding Adult principles of how risks are monitored and managed. The Safeguarding Adults Coordinator or Service Manager should be involved to advise and support complex multi-agency work with adults at risk who choose to self-neglect. The protocol aims to support good practice in this area.

1.8 If concerns relate to acceptance of healthcare, treatment or intervention from a health service or in circumstances where there are high risks of significant harm resulting from the individual's health and/or lifestyle choices, then the practitioner should follow this protocol. If unsure the practitioner should contact their organisation's safeguarding lead for advice or support. The Designated Professional Safeguarding Adults for Greater Huddersfield CCG and North Kirklees CCG can also be contacted for advice.

2. Adults at risk of self-neglect

2.1 The complexity and multi-dimensional nature of self-neglect means that it can often be difficult to detect and identify. Staff must accept a person's autonomy and their right to make lifestyle choices and refuse services. However, complex dilemmas do arise when people appear to rationally or intentionally choose to self-neglect. In such cases there are often clinical, social and ethical decisions to be made in its management.

A review of literature suggests the following definition for self-neglect:

- Persistent inattention to personal hygiene and/or environment
- Repeated refusal of some/all indicated services which can reasonably be expected to improve quality of life
- Self endangerment through the manifestation of unsafe behaviours

It is important that staff be familiar with, and recognise the risk factors associated with self-neglect. Often age related changes will result in functional decline; cognitive impairment; frailty or psychiatric illness will increase vulnerability for abuse, neglect and self-neglect as well as increase the potential for developing a number of underlying health conditions.

2.2 There is an expectation that all agencies engage in full partnership working to achieve the best outcome for the adult at risk who chooses to self-neglect whilst satisfying organisational responsibilities and duty of care. The focus should be on person centred engagement and risk management leading to outcome for the individual where this is possible. Partnership working also support evidenced based practice which is important within the complexities of self-neglect.

Information sharing in such situations should take place in the context of the principles and guidance stated in the West Yorkshire Interagency Information Sharing Protocol: <http://www.this.nhs.uk/fileadmin/IG/interagency-information-sharing-protocol.pdf>

2.3 Risk assessment and risk management is an essential part of the process when there are concerns of self-neglect. Arrangements should be made for monitoring and where appropriate, making proactive contact with the adult at risk and if appropriate their family and carer, to ensure that the adult at risk's needs, risks and rights are fully considered in the event of any changed circumstances. There is a need to be mindful that organisational and professional risk aversion can hinder choice, control and independent living. This poses real challenges for practitioners/professionals in balancing risk enablement with their professional duty of care to keep people safe. Risk enablement therefore needs to become a core part of placing people at the centre of their own care and support. Providing real choice and control means enabling people to take the risks that they choose and incorporating safeguarding and risk enablement into relationship-based, person centred working. Co-production is at the heart of working with self-neglect cases.

2.4 All members of staff dealing with adults at risk should be aware of their duty of care when dealing with cases of self-neglect, even when the individual has mental capacity. It is often not appropriate to conclude that someone with capacity, who is self-neglecting, is self-determining and able to make an unwise decision. Where there are significant risk factors identified and there is a risk of significant harm, this protocol supports the need to override someone's right to choice and confidentiality and to consider ways of engaging with them and ensuring they are aware of the options available. In some circumstances this type of investment can sometimes lead to better engagement and also generates evidence of the attempts to support the adult at risk.

2.5 Where individuals lack capacity and there are concerns about Self Neglect then the principals within the Mental Capacity Act 2005 become relevant and decisions should be considered in the best interests of the individual.

2.6 This protocol focuses on those individuals deemed to have mental capacity but when presented with the risks or statutory actions that may be taken, refuses to engage in solutions to resolve the presenting problems. In such cases, the individual chooses to live in a situation that places themselves and potentially others at risk of harm. This will often require a professional judgement. Such situations might include:

- Portraying eccentric behaviours/lifestyles, such as hoarding or anti-social behaviour causing social isolation. This can impact on the living environment causing health and safety concerns
- Neglecting household maintenance, and therefore creating hazards.
- Poor diet and nutrition, evidenced for example by little or no fresh food, or what there is being mouldy or unfit for consumption
- Refusing to allow access to health and/or social care staff in relation to personal hygiene and care
- Personal or domestic hygiene that exacerbates a medical condition that could lead to a serious health problem
- The person refuses to consent to treatments, medications, the use of equipment or interventions for a health or medical condition which could compromise and significantly impact on their health and well being

- There are signs of serious self-neglect that is regularly reported by the public or other agencies, but no change in circumstances occur
- The person refuses to engage with services despite a need being Identified
- The person is either unwilling or refuses to attend external appointments with professional staff, whether social care, health or other organisations (such as housing)
- The person refuses to allow access to other organisations with an interest in the property, for example; staff working for utility companies (gas, electric and water)
- The abode they are living in becomes filthy and verminous causing a health risk or possible eviction
- The conditions in the property cause potential risk to people providing support or services
- There could be other wide ranging situations not listed above or a situation could include one or a combination of the above

Some people are often difficult to engage with, because of presenting behaviours associated with diagnosed or undiagnosed mental health problems, cognitive impairments or other anti – social behaviours. Unfortunately when there is no clear diagnosis or people refuse treatment, they often fall outside of the eligibility criteria of specific services.

3. The procedure for responding to cases of self-neglect where the adult at risk is reluctant or refuses to engage with services (Appendix 1 – Flow Chart)

3.1 Before a multi-agency risk management meeting is requested under this protocol, each agency must ensure that the individual is not eligible for services within their normal eligibility criteria. Within Adult Social Care and Wellbeing eligibility is determined through the eligibility criteria within the Care Act 2014. Eligibility is determined where the adults needs arise as a result of a physical or mental impairment or illness and there is a significant impact of 2 or more needs not being met at the point of assessment. Assessing eligibility for care and support needs will ensure that there is no delay in care and support being provided and may also reduce or remove the need for a multi-agency meeting.

It is important that the impact on the person’s health and wellbeing is considered as part of this assessment. For example: a person may be physically able to wash and dress and clean the house, but due to self-neglect they are not completing these tasks. As a consequence, a significant risk to their health and wellbeing may arise. Where an individual may be able to do something for themselves but chooses not to, or cannot because of self-neglecting behaviours, this may mean that they could be eligible for care and support.

3.2 When risk are identified and an individual is considered to be self-neglecting, but they are refusing to have a financial assessment or pay for support, discussion should take place with the relevant service manager to determine whether to fund the care. In these circumstances there may be justification for suspending or waiving charges, even if just on a temporary basis, to allow critical support to be provided. This can sometimes be a way of engaging the individual and/or reducing a

significant or immediate risk. Each case will need to be assessed on an individual basis.

3.3 Where self-neglect is suspected, a Mental Capacity Assessment should be undertaken to determine whether the individual adult at risk has mental capacity. Determining this is really important in terms of interventions and decisions going forward. The assessor should record when, where and by whom the assessment(s) was/were carried out in relation to the issues of risk (note: Mental Capacity Assessments are both time and decision specific).

Where an adult at risk is unable to agree to have their needs met because they lack mental capacity to make this decision, then the **Best Interest process** must be followed in line with the Mental Capacity Act 2005.

Where an adult at risk has capacity to make the relevant decisions to refuse to engage with services, then the procedure below should be followed and a multi-agency case conference should be considered.

Potential triggers that escalate the situation to require a multi-agency Risk Management Meeting might include:

- Repeated problems of a nature as outlined in section 2.3. When a services usual way of engaging with the adult at risk has not worked and a) no other options appear available or b) enforcement is being considered using statutory powers
- Serious concerns for health and wellbeing that require an immediate response
- The individuals presenting behaviour is not understood and there may be concerns about mental health or mental capacity

3.4 If information is received from a third party that highlights concerns about health and wellbeing or risks to an individual, their carer or other family members, a face to face visit to see the adult at risk should be a priority. This should be undertaken by the most appropriate agency involved in the delivery of care or services or by the agency identified as best placed to support the individual. An assessment of the presenting situation should not be delayed. A visit of this nature would be considered high priority.

3.5 In all instances, lone working protocols should be abided by to minimise the risk to employees

3.6 In all situations where there are concerns an adult is self-neglecting, professionals should determine whether there are children in the house hold who may need support or who are at risk. A referral should be made to Children's Services if deemed necessary. Children's Services Referral and Response Service can be contacted on 01484 456848.

3.7 If the situation surrounding the adult at risk meets a significant level of risk, the worker should discuss with their line manager who should advise whether a multi-

agency risk management meeting should be instigated. Referrals should be made to Gateway to Care, the single point of access for Adult Social Care by contacting 01484 414933. If concerns are identified outside of normal office hours the Emergency Duty Service can be contacted using the number above. When a Multi-Agency Risk Management Meeting is required Adult Social Care and wellbeing will lead the process in line with this protocol.

Wherever possible, the consent of the adult at risk should be sought, but in cases of significant risk, overriding someone's consent should take in to account the principles and guidance stated in the West Yorkshire Interagency Information Sharing Protocol.

3.8 The adult at risk should be informed by the worker that a meeting will be taking place and why. The adult at risk should be encouraged and supported to attend the meeting where there is a willingness to engage with agencies. Identified family, friends and carers may also represent the adult at risk in the meeting as well as contribute their concerns that will assist in assessing risks.

3.9 When convening a Multi-Agency Risk Management Meeting, the allocated adult social care worker must check with the West Yorkshire Fire and Rescue service (Kirklees) whether the case is known to the Kirklees Hoarding Panel. Where the Hoarding Panel holds information regarding the individual concerned, a relevant member of that panel should be invited to the Risk Management Meeting

3.10 An advocate should be offered / identified if a need is determined and this is the wish of the individual

3.11 A Service Manager from Adult Social Care and Wellbeing should chair the multi-agency meeting and use the agenda (appendix 2) and should ensure the following:

- A Mental Capacity Assessment has been carried out
- A multi-agency risk assessment and support plan is completed (See appendix 4). This will be agreed in the Risk Management Meeting.
- The presenting problems/needs of the adult at risk and what action is required to resolve/meet these have been identified
- Eligibility for care and support services has been determined using the eligibility criteria set out within the Care Act 2014
- An assessment of health needs has been carried out if appropriate
- Consider whether the situation comes under Safeguarding Adult procedures
- Identify if there are any children at risk and refer to Children's Services if appropriate
- Identify 'challenges' to the agencies represented
- Relevant legal/statutory powers to be identified and a decision to be made whether they are applied or used as a contingency (consider legal advice for the meeting for agencies)
- If the adult at risk requires legal support, the role of their lawyer, should be to support and observe the meeting
- Identification of who is best placed to engage with the adult at risk (who has the best relationship or most appropriate skills)

- Agree actions within the risk management support plan and who is responsible for doing what
- Agree communications plan and the appropriate information sharing protocols to support the communication plan
- Agree who takes responsibility for communicating information
- Identify who will be responsible for coordinating actions
- Determine whether/when a further meeting will be required

It is important that the meeting is accurately recorded by a minute taker and action points are clearly identified.

3.12 The Multi-Agency Adult at Risk Management Meeting should agree the risk management support plan using the template provided in appendix 4. The risk management support plan within the Kirklees Adult Risk Management Model (KARMM) should identify the level of risk by using the risk matrix and completing the risk matrix outcome, determining the current risk factors and completing the risk management plan. Members of the core group should be clearly identified in the plan along with the Lead Coordinator. This could be a social worker or other relevant professional. The risk management and support plan should be reviewed under the Kirklees Adult at Risk Management Model and the level of risk reviewed using the Risk Matrix at subsequent review meetings.

Where a key person is identified to take the lead in engaging with an adult at risk who is self-neglecting, it is important that appropriate support and supervision is provided from relevant professions when needed.

3.13 Having established a risk management support plan, the adult's resistance and willingness to be supported should be tested through the implementation of the risk management support plan. The implementation of the plan should be coordinated by the person or agency most likely to succeed in further engagement with the adult in order to attempt to achieve the outcomes. Ongoing monitoring of the situation and concerns is necessary once a risk management support plan is agreed. How a case will be monitored should be agreed and any subsequent Risk Management Review Meetings should be scheduled by the chair of the multi-agency meeting, using the agenda in appendix 3.

3.14 If the plan is still rejected, the meeting should reconvene to discuss a review of the plan and arrangements. The case should not be closed just because the adult at risk is refusing to engage. In cases of significant risk the role of monitoring and supporting the adult at risk, should be considered as a way of building trust and engagement in the future. However, legal advice should be sought if necessary.

3.15 All attempts must be made to include the adult at risk and their carer/family/advocate if appropriate in this process.

3.16 Where agencies are unable to implement services to reduce or remove the risks, the reasons for this should be fully recorded and maintained on the person's file, with a full record of the efforts and actions taken by the agencies to assist the adult at risk.

3.17 The adult at risk, carer or advocate should be fully informed of the services offered and the reasons why the services were not implemented. There is a need to make clear that the adult at risk can contact the relevant agency at any time in the future of services.

3.18 Arrangements should be made for monitoring and where appropriate making proactive contact to ensure that the adult at risk's needs, risks and rights are fully considered in the event of any changed circumstances.

3.19 Before the multi-agency meeting disbands any ongoing needs for the individual, their family and carers should be clearly identified and communicated to the relevant agencies. Cases that continue to have ongoing risks will remain open to community teams for 3 monthly reviews. Resolved cases will remain open for 6 monthly reviews.

3.20 It is important to ensure that meetings, discussions, actions and outcomes arising from each stage of the procedures are fully recorded

3.21 This process will not affect the individual's human rights, but it will ensure that partner agencies exercise their duty of care in a robust manner and as far as is reasonable.

4. Support arrangements for professionals

4.1 Working in a complex and demanding situation can be stressful for operational staff. Regular support and supervision should be provided to staff involved.

4.2 As part of the final risk management meeting, staff should be asked if a 'debrief' is required. The multi-agency meeting will agree what form this should be in – individual, informal or formal etc.

Further supporting guidance and documents:

APPENDIX 1	PROCEDURAL FLOWCHART FOR MANAGING SELF NEGLECT
APPENDIX 2	AGENDA FOR A MULTI AGENCY RISK MANAGEMENT MEETING
APPENDIX 3	AGENDA FOR A MULTI AGENCY RISK MANAGEMENT MEETING
APPENDIX 4	RISK MANAGEMENT AND SUPPORT PLAN FOR SELF-NEGLECT
APPENDIX 5	GUIDANCE AROUND THE MENTAL CAPACITY ACT
APPENDIX 6	OTHER SUPPORTING LEGISLATION

**APPENDIX 1
PROCEDURAL
FLOW CHART**

Worker has exhausted usual process to engage the vulnerable person. The person is at serious risk or statutory powers are being considered. **A referral to Gateway to Care is required. 01484 414933**

Gateway to Care to identify relevant team to manage the case. Team Manager to determine whether in agreement that a multi-agency risk management meeting is required?
YES/NO
If yes line manager to agree who needs inviting

Key areas for first meeting
 * Multi agency risk assessment completed
 * Does the situation come under safeguarding adults procedures?
 * Is the adult at risk eligible for care and support services.
 * Are any children at risk?
 * Identify 'challenges' to agency policy, procedure
 * Relevant legal / statutory powers to be identified.
 * Will legal / statutory powers be applied or used as a contingency?
 * Information sharing protocol to be agreed.
 * Risk Management Support plan agreed.

YES
Each agency to appoint a representative who is able to agree and make decisions

Mental Capacity Assessment(s) in relation to identified risk of self-neglect to have been completed

Multi agency meeting takes place

Action agreed with timescale. Reengage with adult risk

NO
If no risk or vulnerabilities identified the agency should follow their normal policies & procedures

If in doubt, discuss with Safeguarding Adult Advisor

Have the agreed actions been completed? Has the presenting problems been resolved?
YES/NO

If not already received it would be prudent to seek legal advice at this stage

NO
 * Multi-agency meeting reviews support plan and whether an alternative approach would work?
 * Does the level of risk allow for more time to be taken?
 * Do relevant legal powers need to be used?

* Revised support plan implemented to resolve the presenting situation.
 * The adult at risk to be supported through the process if the legal powers are used.

* Ensure the adult at risk is kept informed.
 * Ensure case review arrangements in place.
 * Ensure staff supervision and support arrangements in place.

YES
 * Any ongoing support to be clearly identified and agreed by relevant agencies.
 * Any learning and good practice to be recorded and incorporated in the protocol.

Multi-agency meeting disbands

APPENDIX 2

AGENDA

Multi-Agency Kirklees Adult at Risk Management Meeting (KARMM)

Held under Kirklees Safeguarding Adults Board Where there are concerns about the Self Neglect

1. Introduction and Welcome
2. Confidentiality
3. Purpose of the Meeting
4. Background to the concerns about the adult at risk
(including previous agency support and interventions)
5. Agency Involvement/Assessment
6. Multi-Agency risk assessment
7. Relevant legal and statutory powers
8. Communication Plan
9. Agree Risk Management / Support Plan
10. Date of Case Review
11. Any Other Business

APPENDIX 3

AGENDA

Multi-Agency Kirklees Adult at Risk Management Meeting (KARMM) Review Meeting

**Held under Kirklees Safeguarding Adults Board
Where there are concerns about the Self Neglect**

1. Introduction and Welcome
2. Confidentiality
3. Purpose of the Meeting
4. Minutes / Review of actions from the last meeting
5. Current Situation
6. Review of Multi-Agency risk assessment
7. Relevant legal and statutory powers
8. Communication Plan
9. Agree Risk Management / Support Plan
10. Is the case ongoing or can it proceed to closure?
11. Date of further Case Review
12. Any Other Business

APPENDIX 4: RISK MANAGEMENT - SUPPORT PLAN FOR SELF-NEGLECT

To be completed at multi-disciplinary risk management meetings under Kirklees Safeguarding Adults Board guidance for managing Self-Neglect/KARMM (Kirklees Adult Risk Management Model)		
Section 1		
1. Name of Service User		
2. Address of Service User		
3. Care First/Insight/NHS Number		
4. Date of Assessment		
5. Name(s) of workers/individuals involved in the risk assessment		
6. Has the Service User consented to the meeting?	Yes	No
7. Is the Service User in attendance at the meeting?	Yes	No
8. Current Risk factors	9. Relevant previous risk factors	10. Source of risk data – service user, workers, files, etc

11. Risk Assessment

RISK	LIKELIHOOD OF HARM		
	HIGH	MEDIUM	LOW
HIGH	X	X	X
MEDIUM	X	X	X
LOW	X	X	X

Risk Outcome Matrix

RED (High)

AMBER (Medium)

GREEN (Low)

Decision and Rationale for the decision:

Timescale for KARMM Review Meetings:		
Date of next Review Meeting:		
Risk Management Plan – please detail what actions will be taken, when, by whom and what contingency plans have been agreed		
Action:	Name of responsible person:	Timescales:
Contingency:		
Membership of Core Group	Contacts	
		Lead co-ordinator of Risk Management Plan
Views and wishes of the Adult at Risk		

Section 2 (Review)	
Date of Review:	
To be completed at each review meeting (Virtual or Actual)	
Review Record – detail below how the Risk Management Plan has been implemented	
Contact with the individual: Yes/No By whom, when: If not, what attempts have been made?	Have any elements of the KARMM Risk Management Plan been implemented – provide details:
Have the risks increased – what has changed? What can be done to address this? At this point reconsider the Risk Outcome Matrix	Have the risks decreased – what has changed? At this point reconsider the Risk Outcome Matrix Can this now exit the process? Yes/No

Revised KARMM Risk Management Plan or Exit Plan: What actions have been agreed and who will carry them out?			
Action:	Name of responsible person:	Timescales:	
Date of Next Review:	Venue: (if meeting):		
Risk Outcome Matrix Who will notify the relevant Service Manager:	RED(High)	AMBER(Medium)	GREEN(Low)
Name of Service Manager notified of the risks:	Contact details/Telephone Number:		
Date Notified:			
<p>This completed form should be emailed to: _____ and notify Senior Managers within your organisation of the changes</p>			

APPENDIX 5

Mental Capacity Act 2005

The five underpinning Principles

You must:-

- 1) Assume the person has capacity unless proved otherwise
- 2) Do not treat people as incapable of making a decision unless you have tried all practicable steps to try to help them.
- 3) Allow people to make what may seem to you an unwise decision (if they have capacity)
- 4) Always do things, or take decisions for people without capacity in their best interest
- 5) Ensure that when doing something to someone, or making a decision on their behalf you choose the least restrictive option.

The two- stage test of capacity

You must use the following test to assess if the person has capacity:-

- 1) Is there an impairment of, or disturbance in the functioning of the person's mind or brain? If so,
- 2) Is the impairment or disturbance sufficient that the person lacks the capacity to make that particular decision at a given time (capacity is decision specific)

The person is able to make a decision and therefore has capacity if they:-

- a. Understand the information relevant to the decision
- b. Retain the information
- c. Use or weigh that information as part of the process of making the decision, and
- d. Communicate his/her decision either by talking, signing or any other means

Best Interest Checklist

Where a person is unable to make decisions, all decisions must be made in the best interest of that person. The checklist below gives some common factors that you must always take into account where a decision is being made, or an act is being done for the person who lacks capacity.

- Involve the person who lacks capacity
- Be aware of the persons past and present wishes and feelings
- Consult with others who are involved in the care of the person
- Do not make assumptions based solely on the person's age, appearance, condition or behaviour
- Is the person likely to regain capacity to make the decision in the future

You must formally record your decision e.g. by completing the MCA Checklist template and store this within the service user's electronic or paper file.

ASSESSING CAPACITY NOTES

“A person is not to be treated as unable to make a decision merely because he makes an unwise decision”

Prompts for considering capacity

If there are problems with a person's ability to reasonably make decisions and communicate their wishes, it may be that they lack capacity. There are a number of problems which may result in a person lacking capacity, such as:

- Prolonged use of drugs or alcohol
- Brain damage
- Mental illness
- Learning disability
- Loss of consciousness
- Dementia

When there is a query about a person's capacity to make a decision, you must consider the following:

- A) Does the person understand the choice to be made and its consequences?
- ✓ Has all the support possible been made available? i.e. Where is the best place and at the best time for the person to have a discussion? What is the person's primary language? Would signs/ picture be helpful? Who is the best person to support them? Would general advocacy be helpful? Etc.
 - ✓ After discussion can the person explain to the person asking what the choices are?
 - ✓ Can the person understand why a choice is needed? Or why people may be concerned?
 - ✓ Can they say which is best or worst about anything? Can they consider the best and worst options in relation to the choice to be made?
 - ✓ Can the person think into the future? What will be happening next week or next month? Can they consider consequences of decisions made, in terms of what it might mean for them in the future? Can they communicate this?
- B) Does the person remember the information long enough to discuss the issues listed above?

C) In spite of all efforts being made, the person cannot communicate their views and make them understood?

Decisions in the person's best interest will:-

- Be fair and not in any way discriminatory
- Protect the person from harm or suffering
- Will promote their well being
- All points of view will be considered before making the decision
- The person themselves should be involved as much as possible and helped to make future decisions
- The person's wishes should be included, their religion and beliefs and if they did once have capacity, what is known about their views at that time should also be considered
- In terms of medical treatment, life sustaining treatment is generally considered as being in the persons best interest
- The least restrictive option
- Consider if it is likely that the person will have capacity at some point in the future

Appendix 6

Other supporting legislation

Public Health Act 1936

The Public Health Acts 1936 and 1961 contain the principal powers to deal with filthy and verminous premises.

Section 83 Cleansing of Filthy or Verminous Premises

1. *Where a local authority, upon consideration of a report from any of their officers, or other information in their possession, are satisfied that any premises –*
 - a) *Are in such a filthy or unwholesome condition as to be prejudicial to health, or*
 - b) *Are verminous*

The local authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises.

The steps which are required to be taken must be specified in the notice and may include:

- Cleansing and disinfecting
- Destruction or removal of vermin
- Removal of wallpaper and wall coverings
- The interior surface of premises used for human habitation or as shops or offices to be papered, painted or distempered, and
- Interior of any other premises to be painted, distempered or whitewashed.

There is no appeal against a Section 83 notice and LA has the power to carry out works in default and recover costs. The LA also has the power to prosecute for non-compliance.

Section 84 Cleansing or Destruction of Filthy or Verminous Articles: -

A local authority can apply on the certificate of the proper officer of the authority of health for the cleansing, purification or destruction of articles necessary in order to prevent injury, or danger of injury, to health.

Section 85 Cleansing of Verminous Persons and Their Clothing: -

On the application of any person or a proper officer of the authority, a local authority can take necessary measures to free a person and his clothing from vermin including removal to a cleansing station. A court order can be applied for where the person refuses to comply.

The LA cannot charge for cleansing a verminous person and may provide a cleansing station under Section 86 of the Public Health Act 1936.

The Public Health Act 1936 S81 also gives Local Authority's power to make bylaws to prevent the occurrence of nuisances from filth, snow, dust, ashes and rubbish.

The Public Health Act 1961

The Public Health Act 1961 amended the 1936 Act and introduced: -

Section 34 Accumulations of Rubbish

This gives a local authority power to remove accumulations of rubbish on land in the open air.

Section 36 Power to Require Vacation of Premises During Fumigation: -

Makes provision for the Local Authority to serve notice requiring the vacation of verminous premises and adjoining premises for the purposes of fumigation to destroy vermin. Temporary accommodation free of charge must be provided and there is the right of appeal.

Section 37 Prohibition of Sale of Verminous Articles: -

And provides for household articles to be disinfested or destroyed at the expense of the dealer (owner).

Housing Act 2004

Allows LA to carryout risk assessment of any residential premises to identify any hazards that would likely cause harm and to take enforcement action where necessary to reduce the risk to harm. If the hazard is a category 1 there is a duty by the LA to take action. If the hazard is a category 2 then there is a power to take action. However an appeal is possible to the Residential Property Tribunal within 21 days. A local authority can prosecute for non-compliance

Building Act 1984 Section 76 (defective premises): -

This Act is available to deal with any premises which are in such a state as to be prejudicial to health or a nuisance. It provides an expedited procedure; the LA may undertake works after 9 days and recover expenses, unless the owner or occupier states intention to undertake the works within 7 days. There is no right of appeal and no penalty for non –compliance.

Environmental Protection Act 1990 Section 79 (statutory nuisance): -

This refers to any premises in such a state as to be prejudicial to health or a nuisance. Action is by Section 80 abatement notice; the recipient has 21 days to appeal.

Prevention of Damage by Pests Act 1949:-

Local Authorities have a duty to take action against occupiers of premises where there is evidence of rats or mice. They have a duty to secure that its district is free from rats and mice.

Public Health (Control of Disease) Act 1984 Section 46:-

Imposes a duty on Local Authority to bury or cremate the body of any person found dead in their area in any case where it appears that no suitable arrangements for the disposal of the body have been made. Costs may be reclaimed from the estate or any person liable to maintain the deceased.

The Act also sets out restrictions in order to control the spread of disease, including use of infected premises, articles and actions that can be taken regarding infectious persons.

Mental Health Act 1983:-

Compulsory admission to hospital or guardianship for patients not involved in Criminal proceedings (Part II).

Section 2 - Admission for Assessment

Duration of detention: 28 days maximum

Application for admission: by Approved Mental Health Professional or nearest relative. Applicant must have seen patient within the previous 14 days.

Procedure: two doctors (one of whom must be section 12 approved) must confirm that:

- (a) patient is suffering from mental disorder of a nature or degree which warrants detention in hospital for assessment (or assessment followed by medical treatment) for at least a limited period; *and*
- (b) He ought to be detained in the interests of his own health or safety or with a view to the protection of others.

Discharge: by any of the following:

- Responsible Medical Officer
- Hospital managers
- Nearest relative who must give 72 hours' notice. Responsible Medical Officer can prevent nearest relative discharging patient by making a report to the hospital managers
- Mental Health Review Tribunal. Patient can apply to a tribunal within the first 14 days of detention.

Section 3 – Admission for Treatment

Duration of detention: six months, renewable for a further six months, then for one year at a time.

Application for admission: by nearest relative or Approved Mental Health Professional in cases where the nearest relative does not object, or is displaced by County Court, or it is not 'reasonably practicable' to consult him

Procedure: two doctors must confirm that

- (a) patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; *and*
- (c) It is necessary for his own health or safety or for the protection of others that he receives such treatment and it cannot be provided unless he is detained under this section and
- (d) Appropriate treatment is available for him

Renewal: under section 20, Responsible clinician can renew a section 3 detention order if original criteria still apply and treatment is likely to 'alleviate or prevent a deterioration' of patient's condition.

In cases where patient is suffering from mental illness or severe mental impairment but treatment is *not* likely to alleviate or prevent a deterioration of his condition, detention may still be renewed if he is unlikely to be able to care of himself, to obtain the care he needs or to guard himself against serious exploitation

Discharge: by any of the following

- Responsible Medical Officer
- Hospital managers
- Nearest relative who must give 72 hours' notice. If Responsible Medical Officer prevents nearest relative discharging patient by making a report to the hospital managers, nearest relative can apply to Mental Health Review Tribunal within 28 days
- Mental Health Review Tribunal. Patient can apply to a tribunal once during the first six months of his detention, once during the second six months and then once during each period of one year

Section 7 Guardianship

A guardianship application may be made in respect of a patient on the grounds that–

- a) S/he is suffering from mental disorder, of a nature or degree which warrants his reception into guardianship
- b) It is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should be so received.

Application can be made by an AMHP or the nearest relative with written recommendations from 2 medical practitioners. If the nearest relative objects it may be appropriate to displace (Sec 29). The guardian may be the local authority. The purpose of guardianship is to enable the patient to receive care outside hospital when it cannot be provided without the use of compulsory powers. It provides 'an authoritative framework for working with a patient with a minimum of constraint to achieve as independent a life as possible within the community and must be part of the patients overall care and treatment plan'.

Section 135 Warrant to search for and remove patients

If there is reasonable cause to suspect that a person believed to be suffering from a mental disorder has been, or is being ill-treated, neglected or kept otherwise than under proper control or is unable to care for himself and is living alone, an AMHP can apply to a Magistrates Court for a warrant authorising a police constable to enter the premises, if need be by force and remove the patient to a place of safety for up to 72 hours, with a view to making an application under Part II of the MHA 1983.

Powers of Entry

An authorised officer of a local authority may have a right of entry to premises in order to fulfil their role and duties. The powers; whether an application for permission to enter has to be made; whether notice has to be given and the limits on the power will vary with the individual Act and should be checked carefully.

Human Rights Act 1998

Public authorities must act in accordance with the Convention of Human Rights, which has been enacted directly in the UK by the Human Rights Act 1998 and therefore can be enforced in any proceedings in any court.

Article 5 – The Right to Liberty and Security.

Everyone has the right to liberty and security of persons.

Article 8 – Right to respect for Private and Family Life

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such is permitted by the law, is for a lawful purpose e.g. is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or the protection of the rights and freedoms of others and is proportionate.

The First Protocol Article 1 – Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Anti-Social Behaviour 2003 (as amended)

Anti-social behaviour is defined as persistent conduct which causes or is likely to cause alarm, distress or harassment or an act or situation which is, or has the potential to be, detrimental to the quality of life of a resident or visitor to the area.

Questions about whether an application for an Anti-Social Behaviour Order would be appropriate should be made to the designated police officer (it may be appropriate to involve the police in the multi-agency work), the registered social landlord or the local authority.

Misuse of Drugs Act 1971

Section 8 (this creates an offence if the occupier of premises permits certain acts to take place on the premises)

‘A person commits an offence if, being the occupier or concerned in the management of the premises, he knowingly permits or suffers any of the following activities to take place on those premises...’

s8 (a) Producing or attempting to produce a controlled drug...’

s8 (b) Supplying or attempting to supply a controlled drug to another ...or offering to supply a controlled drug to another....’

s8 (c) Preparing opium for smoking’s8 (d) Smoking cannabis, cannabis resin or prepared opium’