# Cambridgeshire and Peterborough Multi-Agency Policy and Procedures to Support People who Self-Neglect

**(This document used should be used alongside the Multi-Agency Adult Safeguarding Procedures)**

These procedures will be reviewed regularly and updated to incorporate lessons from recent cases and new guidance or changes in practice.

**Version Control:**

| Version | Date | Author/Reviewer | Comments |
|---|---|---|---|
| V2 | 02/10/2017 | A Harbour | Appendix 1, typo corrected. |
| V2 | 24/04/2018 | A Harbour | Branding changed to new logos |
| V2 | 24/04/2018 | A Harbour | Appendix 1 – MASH deadline changed from 2 days to 1-3 days, to match mult-agency procedures. |

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# PART 1: POLICY

## 1.1 Introduction

Managing the balance between protecting adults at risk of self-neglect against their right to self-determination is a serious challenge for services. Working with people who are difficult to engage with can be exceptionally time consuming and stressful to all concerned. However, failure to engage with people who are not looking after themselves, (whether they have mental capacity or not) may have serious implications for, and a profoundly detrimental effect on, an individual's health and well-being. It can also impact on the individual's family and the local community.

Often the cases that give rise to the most concern are those where an individual refuses help and services and is seen to be at grave risk as a result. If an agency is satisfied that the individual has the mental capacity to make an informed choice on the issues raised, then that person has the right to make their own choices, even if these are considered to be unwise. **But** - this should not be seen as a 'take it or leave it' strategy.

Serious self-neglect is a complex issue which usually encompass a complex interplay between mental, physical, social and environmental factors. It frequently covers inter-related issues such as drug and alcohol misuse, homelessness, street working, mental health issues, criminality, anti-social behaviour, inability to access benefits and / or other health related issues.

**This policy should be referred to where an adult is believed to be self-neglecting and therefore may be at a high level of risk**. An adult may be at risk of serious harm where they are:

- Either unable, or unwilling to provide adequate care for themselves
- Not engaging with a network of support
- Unable to or unwilling to obtain necessary care to meet their needs
- Unable to make reasonable, informed or mentally capacitated decisions due to mental disorder (including hoarding behaviours), illness or acquired brain injury
- Unable to protect themselves adequately against potential exploitation or abuse
- Refusing essential support without which their health and safety needs cannot be met and the individual lacks insight to recognise this.

Public authorities, as defined by the Human Rights Act 1998, must act in accordance with the requirements of public law. In relation to adults perceived to be at risk because of self-neglect, public law does not impose specific obligations on public bodies to take particular action. Instead, the authorities are expected to act fairly, proportionately, rationally and in line with the principles of the Care Act 2014, the Mental Capacity Act 2005, and, where appropriate, consideration should be given to the application of the Mental Health Act 1983. Where appropriate, concerns maybe referred to the Court of Protection. In rare cases, where the individual has capacity, but is unable to exercise choice, for example – appears to be acting under duress, consideration should be given to options available under the Inherent Jurisdiction of

the High Court.

The Care Act, which came into force on 1 April 2015, sets out the Local Authority's responsibility for protecting adults with care and support needs from abuse or neglect in primary legislation. For the first time, this makes direct reference to self-neglect. Section 1 of The Act provides particular focus on well-being in relation to an individual, and requires that organisations should always promote the adult's well-being in their safeguarding arrangements. This includes establishing with the individual what 'safe' means to them and how this can be best achieved. Well-being in the Act is described as:

a. Personal dignity (including treatment of the individual with respect)
b. Physical and mental health and well-being
c. Protection from abuse and neglect
d. Control by the individual over day to day life (including over care and support, or support provided to the individual and the way in which it is provided)
e. Participation in work, educations, training or recreation
f. Social and economic well-being
g. Suitability of living accommodation
h. The individuals contribution to society

The principles of promoting a person's wellbeing are also supported by Making Safeguarding Personal (2014), and subsequent toolkit Making Safeguarding Personal: A Toolkit for Response (2015), which seeks to ensure that where possible, the individual is involved in their own safeguarding and that it is 'person-led', 'out-come' focused but not process driven.

**1.2 The aim of this Policy and Procedures** is to provide an agreed and structured process against which to consider a 'concern' of self-neglect. They are aimed at preventing serious harm or even the death of individuals who appear to be self-neglecting by ensuring that:

- Individuals are empowered as far as possible, to understand the implications of their actions
- There is a shared, multi-agency understanding and recognition of the issues involved in working with individuals who self-neglect
- There is effective multi-agency working and practice
- Concerns receive appropriate prioritisation
- Agencies and organisations uphold their duty of care
- There is a proportionate response to the levels of risk to self and others

This should be achieved through:

- Promoting a person-centred approach which supports the right of the individual to be treated with respect and dignity, and to be in control of, and as far as possible, to lead an independent life
- Aiding recognition of situations of self-neglect
- Increasing knowledge and awareness of the different powers and duties provided by legislation and their relevance to the particular situation and individuals' needs. This includes the extent and limitations of the 'duty of care' of professionals

- Promoting adherence to a standard of reasonable care whilst carrying out duties required within a professional role, in order to avoid foreseeable harm
- Promoting a proportionate approach to risk assessment and management
- Clarifying different agency and practitioner responsibilities and in so doing, promoting transparency, accountability, evidence of decision-making processes, actions taken and
- Promoting an appropriate level of intervention through a multi-agency approach.

### 1.3 The scope of this policy does not include

- Issues of risk associated with deliberate self-harm,
- Where there are concerns that any relevant agency has closed their involvement prematurely, or is not proactively engaging with multi-agency plans to address the concerns and risks for the individual, this should be escalated through the relevant process for that agency.

However, it would be appropriate to address these issues by raising a safeguarding concern though the MASH (Multi-Agency Safeguarding Hub) if:

- There appears to be a failure by regulated professionals or organisations to act within their professional codes of conduct
- There appear to be actions or omissions by third parties to provide necessary care or support where they have a duty of care either as a care worker, volunteer or family member to provide such care/support.

If there is any child protection or 'child in need' concerns as a consequence of an adult seriously self-neglecting, these **must** be referred to Child and Family Services as a matter of urgency.

Agencies will be expected to have their own organisational policy and procedures in place that dove-tail into the Multi-Agency Procedures to Support People who Self-Neglect.

### 1.4 Hoarding Behaviours

For specific advice on working with people with hoarding behaviours please refer to the *Cambridgeshire and Peterborough Protocol for Working with People with Hoarding Behaviours*[1].

### 1.5 Empowering Individuals

Building a positive relationship with individuals' who self-neglect is critical to helping them to achieve change, and in ensuring their safety and protection. Consideration needs to be given at an early stage, to determine if the individual has the mental capacity to understand and make informed decisions about their responses to concerns about their apparent self-neglecting behaviour. Responses should be proportionate to the assessed risks and should consider the wishes of the individual.

[1] http://www.safeguardingpeterborough.org.uk/adults-board/information-for-professionals/multi-agency-policies-and-procedures/working-with-people-who-display-hoarding-behaviours/

### 1.6 Key Principles

The following key principles should guide operational practice:

**Empowerment** – People being supported and encouraged to make their own decisions and informed consent.
*"I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens."*

**Prevention** – It is better to take action before harm occurs.
*"I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help."*

**Proportionality** – The least intrusive response appropriate to the risk presented.
*"I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed."*

**Protection** – Support and representation for those in greatest need.
*"I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want."*

**Partnership** – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
*"I know that staff treats any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me."*

**Accountability** – Accountability and transparency in delivering safeguarding.
*"I understand the role of everyone involved in my life and so do they."*

### 1.7 Definition - Self-Neglect

The complexity and multi-dimensional nature of self-neglect means that it can often be difficult to detect and identify. There is no accepted definition either nationally or internationally.

Gibbons et al (2006) defined it as '*the inability (intentionally or unintentionally) to maintain a socially and culturally acceptable standard of self-care with the potential for serious consequence to the health and well-being of those who self-neglect and perhaps too to their community.*'

A review of literature suggests the following definitions:

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

Further research carried out by Braye et al (2014): Self-Neglect Policy and Practice: Building an Evidence Base for Adult Social Care has resulted in the publication of a Practice Tool for Adults – Working with Outcomes: Self-neglect policy and practice: building an evidence base for adult social care

This research identified that the term 'self-neglect' itself proved controversial, in that individuals sometimes did not identify with the description of their situation. As a result, it is important that practitioners seek to negotiate a common ground to understand the individuals own description of their lifestyle rather than making possible discriminatory value judgements or assumptions about how it can be defined.

What specifically emerged from the research was a way of working that combined aspects of Knowing, Being and Doing:

'***Knowing*** *the individual, their unique history and the significance of their self-neglect compliments the professional knowledge resources that practitioners bring to their work.*

*Such understanding is achieved through ways of* ***being:*** *personal and professional qualities of respect, empathy, honesty, patience, reliability and care – the ability to 'to be present' alongside the person whilst trust is built.*

*Finally,* ***doing*** *professional practice in a way that combines hands-on and hands-off approaches is important: seeking the tiny element of latitude for agreement, doing things that will make a small difference while negotiating for bigger changes, and being clear about when enforced intervention becomes necessary.'*

Self-neglect is included within the safeguarding definitions of the Care Act (2014) Statutory Guidance and '*covers a wide range of behaviour, neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding'. (Care Act Guidance section 14.117).*

# PART 2 – PROCEDURES

## 2.1 Mental Capacity Considerations - For adults who have capacity:

There are individuals who are deemed to have mental capacity, when presented with the risks or statutory actions that may be taken, who refuse 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 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 within and surrounding the property.
- 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 or care.
- Personal or domestic hygiene that exacerbates a medical condition that could lead to a serious health problem.
- The person refuses to consent to treatment, 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 are regularly reported by the public or other agencies, but no change in circumstances occur.
- 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, electrics and water).
- The abode they are living in becomes filthy and verminous causing a health risk or possible eviction.
- The conditions of 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.

The above is not an exhaustive list.

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 for specific services.

## 2.2 Mental Capacity Considerations - For those who lack capacity

The Mental Capacity Act (2005) states that a person is assumed to have mental capacity unless there is a reason to believe otherwise. It also states that a person should not be deemed to lack mental capacity just because they make an 'eccentric or unwise decision. In view of the nature of self-neglect, it is important that capacity assessments are carried out face to face where possible to minimise the risk of assumptions.

These key principles should be kept in mind when considering any particular case where there are concerns of self-neglect:

The involvement of an independent advocate as determined under The Care Act (2014) Statutory Guidance – section 7:93 or an Independent Mental Capacity Advocate (IMCA) - The Mental Capacity Act Code of Practice (chapter 10) should be considered under appropriate circumstances. Where the individual is subject to the Mental Health Act, Independent mental health advocacy is available (S130A. MHA 1983)

Where an individual who is self-neglecting is unable to agree to have their needs met because they are assessed as lacking mental capacity to make specific decisions in relation to this, then the principles of the Best Interest process must be followed in line with the Mental Capacity Act. This may take the form of a multi-agency, Best Interests meeting where the risks are considered to be high. Applications to the Court of Protection may need to be considered.

Where it is difficult to assess whether the individual lacks mental capacity to make specific decisions regarding their serious self-neglect and there is a conflict of opinion between professionals, then an application should be made to the Court of Protection to request an independent assessment via a Court Appointed Visitor.

Assessment of mental capacity should consider whether there are any concerns about possible duress and whether the individual is being influenced or exploited by others who may not have their best interests at heart. Where the individual has mental capacity but is not able to exercise choice as a result of duress or exploitation, legal advice should be sought regarding an inherent jurisdiction application to the High Court.

Mental capacity assessments are both time and decision specific and should therefore be considered and / or repeated as risk increases and in relation to each individual risk.

## 2.3 Risks arising from self-neglect or a person's own behaviour or lifestyle

In determining whether a Section 42 Enquiry and formal safeguarding procedures are required, the MASH should consider and assess the level of risk, the significance to the individual's circumstances and possible consequences.

Other risk indicators could include the following:

- History of crisis incidents with life threatening consequences
- High level of multi-agency referrals received

- Fluctuating mental capacity, history of safeguarding concerns / exploitation
- Financial hardship, tenancy / home security risk
- Likely fire risk
- Public order issues; anti-social behaviour / hate crime / offences linked to petty crime
- Unpredictable / chronic health conditions. Serious concerns for health and well-being that require an immediate response. This may include an unavoidable deterioration in physical or mental health.
- Significant substance misuse
- The individuals network presents high risk factors
- Environment presents high risks and hazards that could result in injury to self and / or others, a health risk or possible eviction
- History of chaotic lifestyle
- The individual has little or no choice over vital aspects of their life, environment or financial affairs.

Having assessed the risk, the response required should be as follows:

| **Level of Risk** | **Response** |
|---|---|
| High (A) | Section 42 Enquiry |
| Medium (B) | Multi-Agency Process |
| Low (C) | Single Agency: Case Management/Case Programme Approach |

**Where there are concerns relating to self-neglect which could amount to a significant risk to the person's health or well-being, a safeguarding 'concern' should be raised. A risk indicator assessment (Appendix 1) should be completed as part of the referral.**

### 2.4 (A) Procedure to be followed where a Section 42 Safeguarding Enquiry under the Care Act (2014) is required. (High risk to health & wellbeing of safety of others).

A Section 42 Enquiry must be followed as outlined. The relevant Local Authority Adult Social Care team will be the Lead Agency.

An Adult At Risk meeting / discussion should be convened within five working days of the 'concern' being received. Some flexibility around procedural timescales may be required to take account of possible difficulties engaging with the individual. The rationale for this must be clearly evidenced.

In high risk cases legal advice should be sought and all available legal options must be considered including application to the Court of Protection where there are concerns about mental capacity or to the High Court where the individual is believed to be mentally capacitated.

### 2.5 (B) Procedure to be followed where a Section 42 Safeguarding Enquiry under the Care Act (2014) is not required. (Medium risk to health & wellbeing of safety of others).

In the majority of cases, the Social Care Assessment / Care Programme Approach and risk management procedures should be the route to provide appropriate intervention to situations of self-neglect. Where the risks are considered to be lower level, and it is determined that a Section 42 Enquiry is not required under Safeguarding Adult Procedures, The MASH will:

- Consider whether the safeguarding referral may be closed and alternative signposting recommended; or
- Determine the most appropriate agency to take the lead in coordinating a multi-agency approach for the individual considered to be at risk of self-neglect using the following criteria:
  - That agency is already involved with the individual.
  - That agency has a duty of care towards the individual because of their needs.
  - That agency holds significant information relating to the individual.
  - The individual has shown a likelihood to engage with them best in the past; and / or
  - The individual's main needs appear to relate to the service provided by that agency.
  - If the individual is not known to any agency, then the MASH will delegate the responsibility to the relevant Local Authority ASC team or refer to Cambridgeshire and Peterborough Foundations Trust (CPFT) depending on the presenting health and social care needs.
    The Lead Agency will formally record (ideally within 24 hours) that these procedures are being applied.

It is likely that individuals who self-neglect will not clearly meet the criteria for any one or a number of agencies or organisations. Previous experience of attempting to engage may have had limited or no success. These factors increase the risk and should be identified as risk indicators that will prompt action under the Self-Neglect Policy and Procedures.

The Lead Agency will appoint an appropriate Care Coordinator to try to engage and work with the individual. This may be someone who already has a relationship established with the individual

Self-neglect work has been agreed as a multi-agency priority by the Safeguarding Adult Boards and there is an expectation that all partner agencies will engage when this is requested by the Lead Agency as appropriate or required to achieve the best outcome for the individual.

### 2.6 Assessment

An assessment of need and risk **(Appendix 2)** should be carried out by the Lead Agency before the Multi-Agency Risk Management Meeting. This will be informed by the views of carers and / or relatives as well as the views of the individual

themselves, wherever possible and practicable. Where there are concerns that the individual lacks or appears to lack mental capacity to fully understand the risks related to their behaviour, a mental capacity assessment must be considered in relation to their ability to make informed decisions regarding the risks identified and completed at this time.

There must be an emphasis on positive risk taking, which takes into account the individual's preference, history, circumstances and life-style to achieve a proportionate tolerance of acceptable risks. The key components of the comprehensive assessment will include these elements:

- A detailed social and medical history.
- Essential activities of daily living (e.g. ability to use the phone, shopping, food preparation, housekeeping, laundry, mode of transport, responsibility for own medication, ability to handle finances).
- Environmental assessment; to include any information from neighbours.
- A description of the self-neglect and the considered impact on the individual's health and wellbeing.
- A historical perspective of the situation.
- The individual's own narrative on their situation and needs.
- The willingness of the individual to accept support.
- The views of family members, health and social care professionals and other people in the individual's network.

If information is received from a third party that highlights concerns to the health and wellbeing or risks to an individual, the carer or other family members, a face to face visit to include those agencies involved in the delivery of care or services should always take place and assessment of the presenting situation should not be delayed. A visit of this nature would be considered high priority for all agencies.

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

Consideration must be given as to whether an independent advocate or IMCA is required at this time - see section 4.4 (2) below.

### 2.7 Information sharing

The Lead Agency will coordinate information gathering and determine the most appropriate actions to address the concerns. Information sharing within these procedures will be in line with local Information Sharing Protocols.

### 2.8 Multi-Agency Risk Management Meeting

Where an adult has been identified as potentially self-neglecting, is refusing support, and in doing so is placing themselves and / or others at risk of harm it is recommended that a multi-agency meeting is convened under the Self-Neglect Procedures within five working days from the initial concerns being raised. This will enable the effective sharing of information to consider the risk(s) of non-intervention and enable an action plan to be agreed. Reasons for arranging a meeting would include:

- Work has not reduced the level of risk and risk remains.
- It has not been possible to coordinate a multi-agency approach through work undertaken up to this point.
- The level of risk requires formal information sharing to agree and record a multi-agency action plan.

The individual should be informed by the Lead Professional that a meeting will be taking place and why. This should be followed up in writing.

The Lead Agency is responsible for convening and chairing the meeting and making arrangements such as venue and note taking.

The Lead Agency will make arrangements to fully involve the individual concerned and enable them to communicate their views. This will include inviting them to attend any meetings. If the individual does not wish to attend the meeting, representatives will need to consider how their views and wishes are to be presented.

The multi-agency meeting should ensure the following:

- A holistic assessment of need has been commissioned / carried out by Health and / or Social Care.
- Appropriate mental capacity assessments have been carried out and formally documented.
- Identification of any further specialist assessments and timescale for completion.
- Where a carer is involved, a Carers Assessment should be offered.
- Risks are identified and a multi-agency assessment carried out that identifies the presenting needs and action required to meet to resolve / mitigate the risks.
- Identify if there are any children at risk and refer to Child and Family Services if appropriate.
- Identify challenges to the agencies represented.
- Relevant legal / statutory powers are identified and a decision to be made whether they are to be applied for or used as a contingency. Legal representation should be considered to discuss legal options and in order to ensure that any actions agreed comply with legislation and statutory duties.
- If the individual is refusing to have a financial assessment or to pay for support, consideration should be given to completing a risk assessment. This is to enable Commissioners to determine whether to fund the package / placement as there may be justification for suspending 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 severe or an immediate risk. Each case will need to be assessed on an individual basis.
- Identification of who is best placed to engage with the individual (who has the best relationship and / or most appropriate skills).
- Agree actions with a person centred support / care plan and who is responsible for what.

- Arrangements should be made for monitoring and where appropriate making proactive contact to ensure that the individual's needs, risks and rights are fully considered in the event of any changed circumstances.
- Agree a communications and information sharing strategy to include who will take responsibility for communicating information.
- Determine whether / when a further meeting will be required.

The Chair of the multi-agency meeting will ensure that clarity is brought to timescales for implementing contingency plans, so that where there is a legal and professional remedy to do so, risk is responded to and harm is reduced / prevented.

Appropriate written communication should be forwarded to the individual concerned, irrespective of the level of their involvement to date. The communication will include setting out what support is being offered and / or is available and providing an explanation for this.

Where agencies are unable to implement services to reduce or remove the risks, the reasons for this should be fully recorded and maintained in the person's file, with a full record of efforts and actions taken by the agencies to assist the individual. The individual, carer and / or advocate should be fully informed of reasons why services were not implemented.

Having established an alternative / person centred care plan, the individual's resistance should be tested by the re-introduction of the new plan by the person or agency most likely to succeed.

If the plan is still rejected and support declined, a multi-agency meeting should be reconvened to discuss a review of the risks, plan and arrangements. The case should not be closed just because the individual is refusing to engage. Legal advice should again be sought if necessary.

It is important that the individual is aware that, should they change their mind about the need for support, then contacting the relevant agency at any time in the future will trigger a re-assessment. Careful consideration will be given as to how this written record will be given, and where possible, explained to the individual.

All attempts must be made to include the individual and their carer / family / advocate in this process.

### 2.9 Review

The review meeting is an opportunity to revisit the original assessments, particularly in relation to the individual's functioning, risk assessments and known or potential rates of improvement or deterioration in:

- The individual
- Their environment, or
- In the capabilities of their support system.

Decision specific mental capacity assessments will have been reviewed and are shared at the meeting. Discussion will need to focus on contingency planning based upon the identified risk(s).

It may be decided to continue providing opportunities for the individual to accept support and monitor the situation. Clear timescales must be set for providing opportunities and for monitoring and who will be involved in this.

Further meeting dates will be set at each multi-agency review until there is agreement that the situation has become more stable and the risk of harm has reduced to an agreed acceptable level. Timescales should be determined according to level of risk; however, it is noted that some flexibility may be required to enable engagement with the individual.

Where possible, indicators that risks may be increasing will be identified and that will trigger agreed responses from agencies, organisations or people involved in a proactive and timely way. Where agencies are unable to implement support or reduce risk significantly, the reasons for this will be fully recorded with a full record of efforts and actions taken.
Legal advice should be considered including application to the Court of Protection where there are concerns about mental capacity or to the High Court where the individual is believed to be mentally capacitated.

Before Self-Neglect procedures are closed, any on-going needs for the individual, their family and carers should be clearly identified and communicated to the relevant agencies. Cases that continue to have on-going risks will remain open to the relevant agency for review. The timescale for this will be determined at the review meeting.

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

### 2.10 (C) Non–Section 42 Low risk – Single Agency Action Required

There may be times where self-neglect may be part of a range of other presentations and where the level of risk is low. In these situations it would be appropriate to address this through the usual care planning and treatment processes. These cases should be regularly discussed at supervision sessions and the risk assessment reviewed if the situation changes.

### 2.11 Duty of Care

All members of staff dealing with adults at risk should be aware of their duty of care when dealing with cases of serious self-neglect, even when the individual has mental capacity. According to civil (tort) law, Duty of Care can be summarised as '*the obligation to exercise a level of care towards an individual, as is reasonable in all circumstances, by taking into account the potential harm that may reasonably be caused to that individual or his property'.* A failure in the duty of care that results in harm could lead to a claim of negligence and consequent damages. Where necessary, a legal view should be sought.

It is noted that in such cases of serious self-neglect, it can be very challenging to professionals / agencies / organisations involved to balance 'the individuals' rights and agencies' duties and responsibilities. All individuals have the right to take risks and to live their life as they choose. These rights, including the right to privacy must be respected and weighed when considering duties and responsibilities towards

them. They should not be overridden other than where it is clear that the consequences would be seriously detrimental to their, or another person's health and well-being and where it is lawful to do so.

**2.12 Support arrangements for professionals.**

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

As part of the final review 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.

# PART 3: SUPPORTING LEGISLATION

## Mental Capacity Act 2005

### Five Key Principles to determine Mental Capacity

**Principle 1**:
*A presumption of capacity* – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

**Principle 2**:
*Individuals being supported to make their own decisions* – a person must be given all practicable help before anyone treats them as not being able to make their own decisions. This means you should make every effort to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that you involve the person as far as possible in making decisions.

**Principle 3**:
*Unwise decisions* – people have the right to make decisions that others might regard as unwise or eccentric. You cannot treat someone as lacking capacity for this reason. Everyone has their own values, beliefs and preferences which may not be the same as those of other people.

**Principle 4**:
*Best interests* – anything done for or on behalf of a person who lacks mental capacity must be done in their best interests.

**Principle 5**:
*Less restrictive option* – someone making a decision or acting on behalf of a person who lacks capacity must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms of action, or whether there is a need to decide or act at all. Any intervention should be weighed up in the particular circumstances of the case.

## Public Health Act 1936

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

PHA 1936 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
- Interior of 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 a proper officer of the LA 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 officer of a local 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. If the person is female, the cleansing must be by a GP or by a woman authorized by the proper officer of the LA.

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

Bylaws for the prevention of certain nuisances:-

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 or the keeping of animals so as to prejudice health.

## 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: -

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

## Housing Act 2004

Allows Local Authority (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 (defective premises). If there is unreasonable delay in repairing, the LA may service notice and 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.

There is further legislation that relates specifically to people – both the living and the deceased e.g. Public Health (Control of Disease) Act 1984.

## Environment Protection Act 1990 Section 79 (statutory nuisance): -

This refers to statutory nuisance at any premises in such a state or smoke, fumes, dust 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 secure its district is free from rats and mice and to take action against occupiers of premises where there is evidence of rats or 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) the patient is suffering from a 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) S/he ought to be detained in the interests of his/her 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. The Responsible Medical Officer can prevent the relative from discharging the patient by making a report to the Hospital Manager.
- Mental Health Review Tribunal. The patient can apply to a tribunal within the first 14 days of detention.

Section 3 – Admission for Treatment

*Duration of detention***:** up to 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 consents, or is displaced by County Court, or it is not 'reasonably practicable' to consult him

*Procedure:* two doctors must confirm that:

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

*Renewal:* under section 20, Responsible Medical Officer 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/her condition, detention may still be renewed if s/he is unlikely to be able to care for him/herself, to obtain the care s/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 the Medical Officer prevents the nearest relative discharging the patient by making a report to the Hospital Manager, the nearest relative can apply to a Mental Health Review Tribunal within 28 days.
- Mental Health Review Tribunal. The patient can apply to a tribunal once during the first six months of his/her detention, once during the second six months and then once during each period of one year.

<u>Section 7 Guardianship</u>

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 authorized 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 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 Act1998 and therefore can be enforced in any proceedings in any court.

Article 5 – 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 as 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'

## Powers of Entry

The following legal powers may be relevant, depending on the circumstances:

- **If the person has been assessed as lacking mental capacity in relation to a matter relating to their welfare:** the Court of Protection has the power to make an order under Section 16(2) of the MCA relating to a person's welfare, which makes the decision on that person's behalf to allow access to an adult lacking capacity. The Court can also appoint a deputy to make welfare decisions for that person.
- **If an adult with mental capacity, at risk of abuse or neglect, is impeded from exercising that capacity freely:** the inherent jurisdiction of the High Court enables the Court to make an order (which could relate to gaining access to an adult) or any remedy which the Court considers appropriate (for example, to facilitate the taking of a decision by an adult with mental capacity free from undue influence, duress or coercion) in any circumstances not governed by specific legislation or rules.
- **If there is any concern about a mentally disordered person:** Section 115 of the MHA provides the power for an approved mental health professional (approved by a local authority under the MHA) to enter and inspect any premises (other than a hospital) in which a person with a mental disorder is living, on production of proper authenticated identification, if the professional has reasonable cause to believe that the person is not receiving proper care. If access is refused a s135 warrant should be considered.
- **If a person is believed to have a mental disorder, and there is suspected**

**abuse or neglect:** Section 135(1) of the MHA, a magistrates court has the power, on application from an approved mental health professional, to allow the police to enter premises **using force if necessary** and if thought fit, to remove the person to a place of safety if there is reasonable cause to suspect that they are suffering from a mental disorder and (a) have been, or are being, ill-treated, neglected or not kept under proper control, or (b) are living alone and unable to care for themselves.

- **Power of the police to enter and arrest a person for an indictable offence:** Section 17(1)(b) of PACE
- **Common law power of the police to prevent, and deal with, a breach of the peace.** Although breach of the peace is not an indictable offence the police have a common law power to enter and arrest a person to prevent a breach of the peace.
- **If there is a risk to life and limb:** Section 17(1)(e) of the PACE gives the police the power to enter premises without a warrant in order to save life and limb or prevent serious damage to property. This represents an emergency situation and it is for the police to exercise the power.

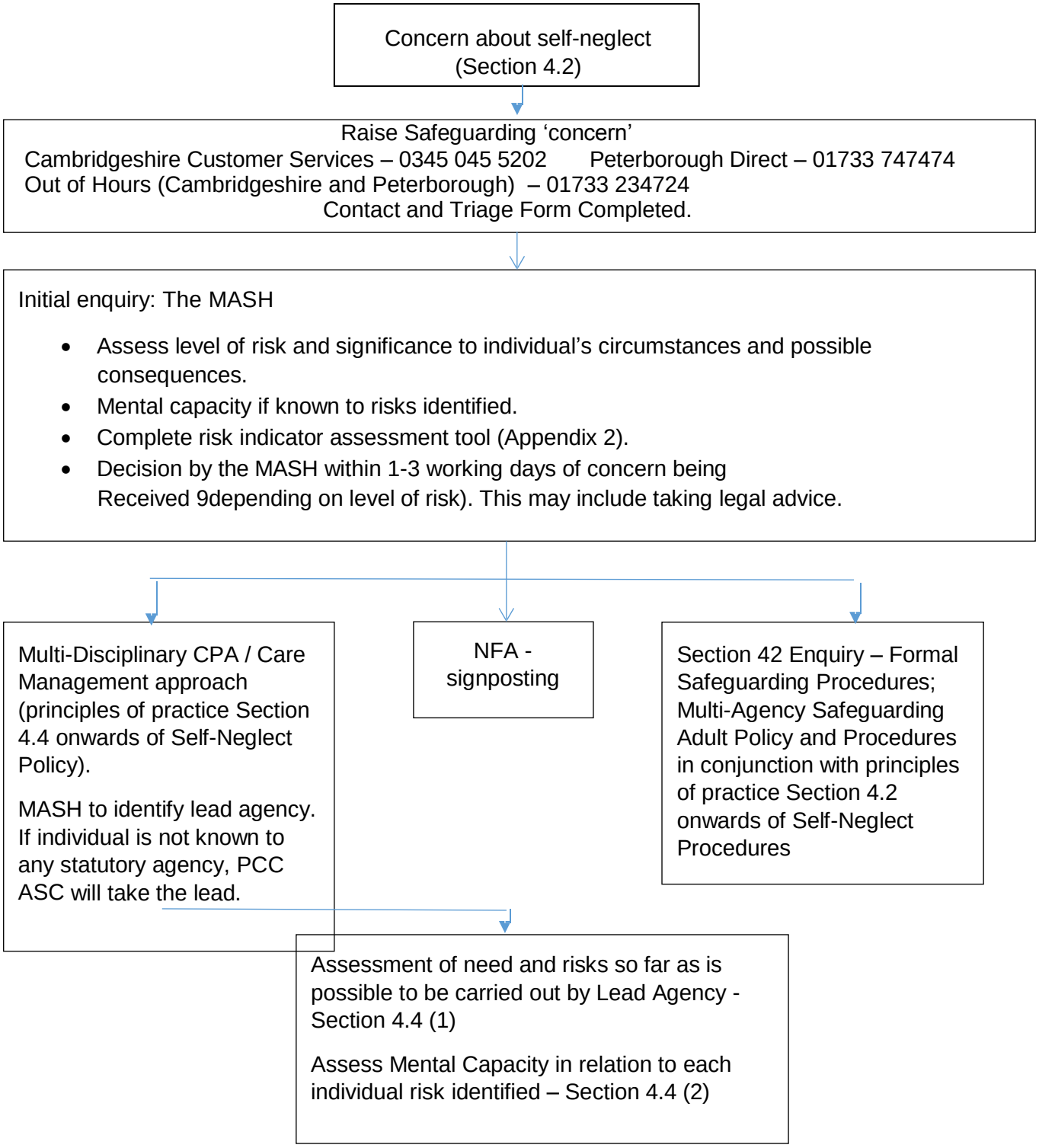
## PART 4: ASSURANCE FRAMEWORK

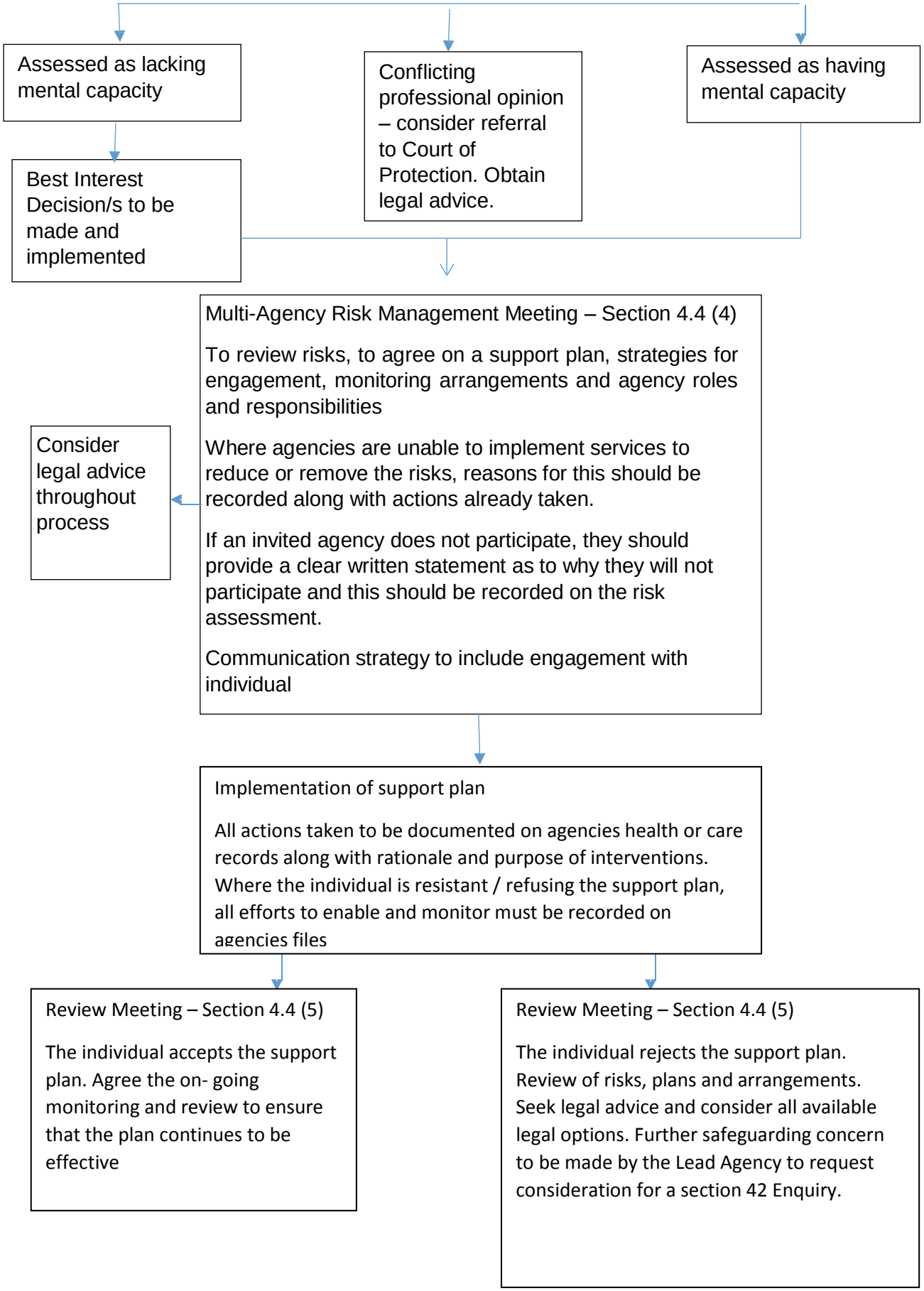
Consideration should be given to the review of cases subject to this procedure as part of the relevant Local Authority assurance framework. This may include some or all of the following:

- Bi-annual audit and presentation of a case to the QEG (Quality and Effectiveness sub-group of the SAB) by the relevant Local Authority as Lead Agency where a Section 42 Safeguarding Enquiry further to a concern of serious self-neglect was carried out.
- Bi-annual audit and presentation of a case to QEG by the Lead Agency where a Section 42 Safeguarding Enquiry was not required but where the self-neglect policy and procedures were followed as a result of a concern of self-neglect being raised.
- Partner Agencies may wish to consider the benefit of establishing panels where concerns of individuals who self-neglect can be discussed and support / advice provided to staff.

# PART 5: APPENDICES

## Appendix 1: Guidance Flowchart




Assessed as lacking mental capacity
Conflicting professional opinion – consider referral to Court of Protection. Obtain legal advice.
Assessed as having mental capacity
Best Interest Decision/s to be made and implemented
Multi-Agency Risk Management Meeting – Section 4.4 (4)
To review risks, to agree on a support plan, strategies for engagement, monitoring arrangements and agency roles and responsibilities
Where agencies are unable to implement services to reduce or remove the risks, reasons for this should be recorded along with actions already taken.
If an invited agency does not participate, they should provide a clear written statement as to why they will not participate and this should be recorded on the risk assessment.
Communication strategy to include engagement with individual
Consider legal advice throughout process
Implementation of support plan
All actions taken to be documented on agencies health or care records along with rationale and purpose of interventions. Where the individual is resistant / refusing the support plan, all efforts to enable and monitor must be recorded on agencies files
Review Meeting – Section 4.4 (5)
The individual accepts the support plan. Agree the on- going monitoring and review to ensure that the plan continues to be effective
Review Meeting – Section 4.4 (5)
The individual rejects the support plan. Review of risks, plans and arrangements. Seek legal advice and consider all available legal options. Further safeguarding concern to be made by the Lead Agency to request consideration for a section 42 Enquiry.

**Appendix 2: Risk Indicator Assessment Tool to be completed when raising a safeguarding concern**

| **Risk Indicator** This is not an exhaustive list: | **Supporting Evidence** | **Action Taken** |
|---|---|---|
| | | |
| History of crisis incidents with life threatening consequences | | |
| High level of multi-agency referrals received | | |
| Non-engagement with agencies | | |
| Fluctuating mental capacity, history of safeguarding concerns / exploitation | | |
| Financial hardship, tenancy / home security risk | | |
| Likely fire risk | | |
| Public order issues; anti-social behaviour/ hate crime / offences linked to petty crime | | |
| Unpredictable / chronic health conditions. Serious concerns for health and well-being that require an immediate response | | |
| Significant substance misuse | | |
| The individual's network presents high risk factors. | | |
| Environment presents high risks and hazards that could result in injury to self and / or others, a health risk or possible eviction | | |
| History of a chaotic lifestyle | | |
| The individual has little or no choice over vital aspects of their life, environment or financial affairs | | |
| Others | | |

## Appendix 3 Assessment of Need and Risk (Self-Neglect)

| This is not an exhaustive list: | |
|---|---|
| Description of home situation | |
| Engagement with essential activities of daily living (e.g. ability to use the phone / pendant alarm, shopping, food preparation, housekeeping, laundry, mode of transport, responsibility for medication, ability to handle finances). | |
| Functional and cognitive abilities of the individual | |
| Family and social support networks | |
| Relevant medical information, to include engagement with professionals, treatments and interventions. | |
| Mental health conditions or substance misuse issues | |
| Social history to include domiciliary care, voluntary and other services offered / in place | |
| Environmental assessment, to include any information from neighbours/family/professionals. This should include any environmental health monitoring in place | |
| A description of the self-neglect and considered impact on the individual's health and well-being | |
| A historical perspective of the situation | |
| The individuals own narrative on their situation and needs | |
| Mental capacity in relation to risks identified (list) and how this has been assessed. | |
| The willingness of the individual to accept support | |
| The views of family members, health and social care professionals and other people in the individual's network | |
| Others: | |