Self Neglect
Dignity and choice

Procedure and practice guidance for social services, partner agencies, voluntary and community groups

December 2012

CROYDON

Foreword

The self neglect, dignity and choice document sets out guidance and procedure for responding to cases of self neglect. This can be a difficult area for intervention as issues of capacity and life style choice are often involved which includes individual judgements about what is an acceptable way of living and degree of risks to self. Even in cases where it appears that the risk to the individual may be significant, there may be no clear legal grounds to intervene. Many decisions will hinge on whether the person concerned has the capacity to make an informed choice about how they are living and the risks to which they are exposed. Assessing capacity in an individual who is resistant to or suspicious of outside intervention is not an easy task. However the risks to individuals can be high with some cases of self neglect leading to the person's death and local authorities wondering should more should have been done to intervene.

Multi agency perspectives:

The document is designed to be both a multi-agency guide to issues of self neglect as well as offering procedural guidance for case workers in adult social services. It is recognised that it is often community and voluntary agencies who become concerned about people who self neglect and that sometimes it is these agencies that are best placed to form non threatening relationships with people over time in an effort to persuade them to accept help.

Guidance:

The documents sets out indicators of self neglect and the role of social services in assessing needs and providing support under the NHS and Community Care Act. The document stresses the importance of good capacity assessment. Often people may have an initial presentation of making a capacitated choice when refusing help but more detailed assessment, if this can be achieved, may indicate that the person's decision making capacity is impaired. This may be particularly true of people developing dementia or with other mental health conditions. It is important to balance people's right to make choices about how they live their life with their protection, especially if they are vulnerable. Robust assessment of the degree of risk and proportionality in intervening is key. The document also sets out the important role of multi-agency partnership working which can help to flesh out a fuller picture and to plan a way forward.

Self neglect and safeguarding:

There are various debates about whether or not self neglect should fall under adult safeguarding processes. Currently Pan London safeguarding procedures do not include self neglect as safeguarding measures are usually based on a person being harmed by someone else. However the Croydon adult safeguarding board has determined that because of the serious consequences of some cases of self neglect by adults at risk, self neglect is

properly a function of the board. The protocol sets out that people who are self neglecting may receive input from either the assessment and case management teams or may be referred in some cases to the social work and safeguarding teams.

Legal implications:

The document sets out some of the legal grounds for intervention and for data and information sharing. It covers responsibilities under the Mental Capacity Act and other powers to intervene rooted in both social care and public health. The document highlights that there is no one piece of legislation that easily provides a solution in all cases and that restricting anyone's liberty to exercise choice over their lifestyle must be weighed against their human rights and the potential for inappropriate intervention by the state in private and family life.

Self neglect and child protection:

The procedural guidance stresses the need to consider the welfare of any children who may be affected by issues of self neglect by an adult. Under children's legislation there is a much clearer framework for intervention if the child appears to be suffering harm. Adult social services must work closely with children's assessment and child protection teams in such cases.

Self Neglect – dignity and choice

Self neglect involves any failure by an adult to take care of him or herself, which causes or is reasonably likely to cause within a short period of time, serious physical, mental or emotional harm, or substantial loss of assets.

Self neglect should not lead to judgemental approaches to another person's standards of cleanliness or tidiness. All people will have differing values and comfort levels, in those respects self neglect concerns a person whose ability to manage their surroundings, their personal care, their finances and basic daily living skills is so compromised that this is directly threatening their health and safety or the health and safety of others around them.

Croydon Dignity Strategy expects that all residents who receive a service will do so by:

- Receiving support and care in a dignified manner.
- Being safe and able to protect themselves from abuse and neglect.
- Being protected when they need to be.
- Being able to easily get the support, protection and services they need.
- Being supported by staff with a commitment to high quality services.

People of different cultures, ages, religions and backgrounds can have very different values and goals, but dignity is almost universal as a standard for how we would want to be treated.

1. **Indicators of self neglect:**

In cases of suspected self neglect, the first course of action should be to work alongside the individual to empower them to change their situation. However some people who neglect themselves are often suspicious of authority and gaining trust and consent to work with them can take time.

Neglect of self:

- Hygiene
- Dirty/ inappropriate Clothing
- Poor hair care
- Malnutrition
- Medical /health needs unmet e.g. diabetes- refusing insulin, treatment of leg ulcers
- Eccentric behaviour/lifestyle
- Alcohol/ substance misuse
- Social isolation
- Situations where there is evidence that a child is suffering or is at risk of suffering significant harm due to self neglect by an adult .

Environment: – living in unsanitary, untidy or dirty conditions, which create a hazardous situation that could cause serious physical harm to the individual or others such as:

- Hoarding
- Fire risk e.g. smoker with limited mobility/hoader
- Poor maintenance of property
- Hoarding lots of pets
- Vermin
- Lack of heating
- No running water / sanitation
- Poor finance management – e.g. bills not being paid leading to utilities being cut off, unexplained money being drawn from bank /savings account.

2. Initial contact

Concerns regarding people who self neglect may be raised by any number of different sources, including concerned family members or neighbours who may raise an alert via the council. Equally voluntary organisations, such as Mencap, Age UK, luncheon clubs, churches and faith groups who are already supporting a person may also become aware of self neglect concerns. Other statutory agencies may also raise alerts, such as the London Ambulance Service or London Fire Service or health providers including GP's, mental health services, addiction services and hospital staff. Housing providers are also a key holders of important information about people who self neglect.

In many cases referral to social services and community care assessment can provide an appropriate intervention with an assessment of the individual in relation to issues of self neglect. This will include the person's perception of their situation and the willingness or not to accept support. Information from family members, people in the clients' social network and other professionals, such as health professionals, can assist in gathering information and identifying issues concerning capacity.

Initial assessment may lead to a community care assessment under personalisation and completion of a Supported Self Assessment leading to a personal budget.

However in some cases, whilst the social services department may have a role to play, it may be the voluntary sector or other partner agencies who are most able to engage with a person. People who self neglect may be reluctant to have contact with statutory social services due to fear about the possible impact on their life style and freedoms or an inability to recognise the harm they may be causing to themselves. Therefore responding to concern about people to self neglect is often best done by multiagency working and coordination of approach.

Associated risks to children:

If there is a child at risk of harm as a result of being in the care of a person who is self neglecting and unable to meet the child's need, this must be referred to the children, family and learners service. **Telephone 020 8726 6400 (24 Hours) or Email childreferrals@croydon.gov.uk**

3. Assessing capacity:

In cases of self neglect it is essential that a person's capacity to make informed choices about their lifestyle is assessed.

The literature reveals that capacity is a complex attribute, involving not only the ability to understand the consequences of a decision but also the ability to execute the decision. Where decisional capacity is not accompanied by executive capacity, and thus overall capacity for autonomous action is impaired, 'best interests' intervention by professionals to safeguard wellbeing may be legitimate. Too often executive capacity does not routinely figure in capacity assessments. There is a risk that its absence may not be recognised and the person may be deemed to be making a capacitated choice when in reality they are not able to carry through the necessary actions to keep themselves safe.

There is a concern too that capacity assessments may overlook the function specific nature of capacity, with the result that apparent capacity to make simple decisions is assumed in relation to more complex ones.

SCIE report 46 'Self-neglect and adult safeguarding: findings from research' http://www.scie.org.uk/publications/reports/report46.pdf provides a detailed exposition of various literature and research about assessing capacity and the varying views as to whether a person may or may not be deemed to have capacity about the life choices they are making.

The SCIE reports suggests: 'Thus capacity must entail both the ability to make a decision in full awareness of its consequences, and also the capacity to carry it out'.

The Mental Capacity Act 2005 states that:

A person is unable to make a decision for himself
If he is unable—

(a) to understand the information relevant to the decision,
(b) to retain that information,
(c) to use or weigh that information as part of the process of making the decision, or
(d) to communicate his decision (whether by talking, using sign language or any other means).
(e)A person is not to be regarded as unable to understand the information

relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).

4. Self neglect and safeguarding:

There are mixed views as to whether self neglect should fall under safeguarding adult procedures. The Pan London procedures are clear that it is excluded. The Law Commission however is recommending that it should be included. In the USA self neglect falls under safeguarding.

Instances of self neglect can often not be managed easily under the safeguarding timescales and procedural steps of safeguarding processes because the engagement of the client may require building trust over a period of time. Additionally and importantly with regards to safeguarding investigation, in self neglect cases there is not per se a perpetrator of harm although people who self neglect may place themselves at risk of harm by others.

What is important is that the issue is not ignored or the case closed simply because of initial refusal to engage and because self neglect is not treated under safeguarding procedures. This is especially so when clear risks have been identified and the person falls under the scope of the NHS and Community Care Act in terms of being in need of assessment of need and risk and potentially provision of support/services..
Croydon Safeguarding Adults Board has made the decision that whilst self neglect may often not be addressed through the safeguarding adults procedures, it does fall under the remit of the Board.

Legal advice should be sought or a legal planning meeting convened if the risks appear substantial and the client refuses to engage.

Any instance where the self neglect by an adult impacts on a child in their care must be considered under child protection procedures and referred to children's services.

In all instances situations of self neglect must be subject to robust risk assessment and risk management with engagement from the necessary / relevant range of partner agencies.

In some instances, a decision may be made to carry forward planning under the remit of a safeguarding process and via one of the safeguarding teams e.g. when there are serious concerns to life and it has not been possible to engage the person. The safeguarding process can support multi-agency engagement and sharing of information.

5. Information Sharing

Pan London Safeguarding Adult Procedure states clearly that information

sharing between organisations is essential to safeguard adults at risk of abuse, neglect and exploitation. In this context organisations may include both statutory organisations and the voluntary and independent sector.

Decisions about what information is shared and with whom will be taken on a case by case basis. Whether this information is shared with or without the adult's consent, the information should be;

- Necessary for the purpose for which it is being shared
- Shared only with those who have a need for it
- Be accurate and up to date
- Be shared in a timely fashion
- Be shared accurately
- Be shared securely

6. Information Sharing Protocols:

A useful summary of the laws affecting information sharing can be found in the Every Child Matters Pocket Guide published by the Department for Education at:
https://www.education.gov.uk/publications/eOrderingDownload/00808-2008BKT-EN-March09.pdf

Sharing with Consent:

Choice, control and empowerment for the service user where there are concerns, must be central principles throughout all areas of the support, investigation and any service delivery. These principles should also be considered as key elements in terms of the information partner agencies gather, retain and share with each other.

Partner organisations will seek informed, explicit consent from the individual concerned before sharing his/her information in accordance with this protocol, unless there is a specific reason for this not being possible or where doing this would undermine the purpose of sharing that information.

Sharing Without Consent:

There are circumstances when it is lawful to disclose personal information about an individual without their consent.
The Data Protection Act 1998 recognises that certain circumstances require the disclosure of personal information and creates certain exemptions from the non-disclosure provisions. These exemptions include:

- Disclosures required by law or in connection with legal proceedings.
- Disclosures required for the prevention or detection of crime.
- Disclosures required to protect the vital interests of the individual concerned.
- Where there is an overriding public interest.

The decision to disclose under these circumstances must be documented and include the reason for the decision, who made the decision, to whom the information was disclosed and the date of disclosure. A decision not to share information must also be recorded with reasons.

Data Quality – information shared should be of a good quality and it is recommended that the information shared follows either the Audit Commissions six principles of data quality or other appropriate guidance used by the organisations sharing the information .The six data quality principles are ;

- Accuracy
- Validity
- Reliability
- Timeliness
- Relevance
- Completeness

Further information about these principles can be found in the Audit Commission document entitled: '***Improving Information to support decision making: standards for better quality data.'***

7. Procedure

Route for referrals:

Referrals may come from neighbours, family members, police, emergency services, health visitors/district nurses, GP, environmental health, housing providers, usually via the social services contact centre.

The contact centre will pass the referral to the duty intake team.
The duty/ intake care manager will need to gather as much information as possible, before passing the referral to the most appropriate team.

Information required:

Robust gathering of information to inform an assessment of need should include:
Name, address and date of birth
Details of GP, District Nurse/Health Visitor
Whether there is outside agency involvement.
Details of family involvement / contacts
Information about any social contacts the client has.
Do they live alone?
Does the individual know a referral is being made/ have they given consent?
The nature of the concern; has this been an on -going issue or sudden deterioration in the individual's life style?
Are there any children at risk of harm as a consequence of the adult's

behaviour?

Assessment of the degree of risk –

Including:
Is the person refusing medical treatment/medication, is this life threatening?
Is there adequate heating, sanitation, water in the home?
Are there signs of the client being malnourished eg may be signs of begging for food or scavenging in bins or visibly thin.
The condition of the environment – poor state of repair, vermin such as rats or flies or hoarding of pets.
Hoarding / Obsessive compulsive disorder including fire risk.
Smell of gas.
Poor state of hygiene.
Suffering from untreated illness, injury or disease.
Depressed and physically unable to care for themselves.
Poor memory or decision making, rendering them unable to care for themselves, which could lead to malnutrition
Signs of confusion or dementia
Associated risks to children

Practitioner's initial response:

- Is client known? – check SWIFT
- Is immediate action required? E.g. advise referrer to phone gas board if there is a smell of gas.
- Contact the referrer for any additional information.

Initial duty contact – by phone, announced or unannounced visit?
The decision about how to contact the person may be informed by referral information regarding degree of urgency and any information about how best to make contact.

Following initial contact, does case require allocation? If not – why?
Are concerns unfounded/ malicious? Discussion with line manager and clear recording to be made as to why NFA, referrer to be informed.

If the case is allocated, make contact with the client by letter or phone to undertake a fact finding assessment under s47 of the NHS Community Care Act.

The professional judgement of staff can make a positive and effective contribution to the early recognition and prevention of self neglect. However the worker should be encouraged to recognise when a client is not engaging with an assessment or care plan so as to avoid collusion.
Assessment needs to include the capacity of the client to manage a personal budget, if they have needs that are eligible for community care support, or be supported by others with this.

In some cases people who self neglect may be resistant to any intervention/ claim that they do not need any help. The worker will form a judgement about whether there are tangible signs of risk due to self neglect and whether further assessment is needed. E.g. the state of the house/ presentation of the client. Does a referral need to be made to the fire brigade for risk assessment and appropriate fire safety equipment to be installed?

If the person refuses initial contact, it is not adequate to close the case whilst uncertainly remains about the level of risk and the person's capacity to make an informed decision about their circumstances and need for support.

If a child is also involved and at risk, refer to children's services at Children, families and learning: Telephone 020 8726 6400 (24 Hours) or Email childreferrals@croydon.gov.uk

Assessing Capacity:

Research identifies that there are two forms of capacity – decision making capacity and executive capacity. E.g. a person may say they are eating well or intend to clear up the house. Their functional ability to do this may be very different because of a range of causes: e.g. physical or mental health, dementia. In such cases it may be necessary to make repeat visits to try to establish a relationship with the person in order to engage their trust and continue the assessment.

If the client is refusing or not wanting to engage and it has been possible to assess that they are making a capacitated decision to refuse support and can explain their reasons why, the risk of this decision must be discussed with the individual to ensure that they are fully aware of the consequences of their decision. This should be recorded.

Where assessments of mental capacity relate to day to day decisions and caring actions the mental capacity code of practice advises that no formal capacity assessment procedure or documentation is needed. The Act provides protection from liability for actions taken as long as those can be understood to have been in the person's best interests. As the seriousness of the decision and/or action increases then the need for clear documentation increases as well as the need to alert others to the situation.

Examples of where a formal assessment of capacity would be needed would include:

- Decisions about where to live.
- Whether to report a criminal or abusive act.
- Where there is a dispute with the person, the family and /or the care team as to the capacity or views of a person.
- Where the capacity of a person could be open to legal challenge, such as in relation to claim of injury.

- Where the person concerned is repeatedly making decisions that place him/ herself at risk or could result in preventable suffering or damage.
- In cases of serious medical treatment.

Each case should be judged on its own merits, using professional judgement.

The Mental Capacity Act 2005 provides direction regarding the assessment of capacity (Please see appendix 1)

***'Respect for the wishes of a self neglecting individual should not mean passive acceptance – the consequences of continuing risk should be explained and explored with the individual*.'**

Multi disciplinary involvement:

- Consider calling a multi agency meeting to explore options for encouraging engagement i.e. to consider which professional is best placed to engage with the person, and/or to consider whether an alternative care plan can be offered, which needs to be documented and discussed with the client. The meeting should consider level and aspects of risk and ways in which agencies can contribute to managing the risk alongside the service user. The case file should also include a record of the multiagency assessment, efforts and actions taken by all agencies involved and the action plan agreed by the multi disciplinary meeting.
- Record options on how to encourage the self neglecting individual to engage and which professional will be best placed to do this. When working with reluctant service users it is important that all professionals communicate clearly and that those communications are recorded.
- Consider involving a legal adviser/ calling a legal planning meeting.

In this meeting explore:

- Does the individual have capacity to make an informed decision about the risks they are running and whether or not they need support?
- How should capacity be assessed?
- Who should carry out the assessment?
- Explore the risks/ likely harm of non intervention
- Document all decision making and record whether or not the professionals present feel that the circumstances require consideration under Safeguarding protocols.
- Are there children at risk?

Managing the balance between protecting against self neglect and client choice is a serious challenge for all agencies involved. In the majority of cases the care assessment route will provide the appropriate support and intervention, which will respect the person's right to make unwise choices where there is capacity.

However where it is felt that the individual is subject to serious self neglect

which could result in significant harm then consideration should be given to taking appropriate action. This may sometimes be within the safeguarding adults procedures.

Safeguarding Adults Policy:

- This policy will apply where an individual is considered as being subject to serious self neglect which could result in significant harm and
- They have refused to engage with services without which their health and safety needs cannot be met.
- They have repeatedly used emergency services inappropriately or /and make regular contact with other services for assistance but do not necessarily meet the criteria for a service.

General points to consider:

If the change required can be identified and fixed you may be able to return the client's situation to normal. This way you may avoid more forceful or directive intervention.

Consider whether there has been a change in behaviour or in the individual's ability to manage the consequences of those behaviours which may indicate physical or mental health problems impacting on capacity.

There are often multiple causes of self neglect. Other professionals, partner organisations or family members may be able to determine causes and help with providing solutions. Involve them in the assessment and decision making process.

Some safeguarding procedures exclude self neglect cases because there is no perpetrator but many do not. Discuss options with the manager and consider whether use of the adults safeguarding procedures would help?

Other agencies may have different powers to intervene. E.g. environmental health.

Consider whether the person has a disorder or disability of the mind?
It may be possible to remove them and detain them for own safety under Mental Health Act 1983.

Is the person unable to care for themselves because of age, infirmity, disease or physical incapacity? You may be able to remove them from insanitary housing under Sec 47 National Assistance Act 1948, but this is likely to be challengeable under the Human Rights Act 1998 as the procedure contains no right of appeal. It is a measure of last resort.

You may be able to intervene by making a decision in the person's best interest, but you will need to bear in mind what their decision would likely to have been before they lost capacity and whether they will comply.

Is the self neglect causing a risk of disease or infestation for others?

Under the Environmental Protection Act 1990 and the Public Health Act 1936, the council may have a duty to intervene and clean the environment. This may only provide temporary improvements for their situation and long term support may be needed.

Does the person have capacity? Continue to support the person to improve their situation but know that you have done everything within your power to enforce change and that the person is making their own decision. This can be done with the involvement of outside agencies.

Consider referring the case to the children's safeguarding team if children are affected. Are there children living in the house? There are greater powers of intervention to protect children if they are adversely affected by adults' decisions than to protect the adults themselves.

In cases of significant perceived harm, consideration should be given to arrangements for monitoring and by whom, and in case of further deterioration whether a need for statutory intervention may be required for example under the Mental Health Act 2007, Mental Capacity Act (where capacity is in doubt), National Assistance Act 1948 sec47 (although this is now rarely used as it is likely to conflict with the Human Rights Act), Environmental Health Protection Act 1990, Public Health Act 1931 sec83 (Please see appendix 2).

In seeking consent to disclose personal information, the individual concerned will be made fully aware of the nature of the information, that it may be necessary to share, with whom the information may be shared, the purpose for which the information will be used and any other relevant details including their right to access, withhold or draw consent.

All partner agencies will ensure that the details, including any conditions surrounding consent [or refused consent] are clearly recorded on the individual's manual and electronic record in accordance with the agency's policies and procedures.

Where data needs to be shared in order to fulfill statutory requirements, these requests will be considered and approved by the appropriate Caldicott Guardian, Data Protection Officer, Information Risk Officer, Freedom of Information Officer or those with similar responsibilities from the partner organisations.

If you are unsure about whether it is lawful to disclose information without consent, seek legal advice or contact your organisation's Data Protection Officer or other designated officer as above.

Organisational Responsibilities with regard to sharing information:

A number of safeguards are necessary in order to ensure a balance between maintaining confidentiality and sharing information appropriately.

Organisations who share information under this protocol will adhere to the following:

Staff must be aware of and comply with:

- Their responsibilities and obligations with regard to the confidentiality of personal information about people who are in contact with their agency
- The commitment of the organisation to share information legally and within the terms of an agreed specific information sharing agreement.
- The commitment that information will only be shared on a need to know basis.
- The understanding that disclosure of personal information which cannot be justified, whether intentionally or unintentionally, may be subject to disciplinary action and possibly legal sanctions.

Ensure information disclosed is recorded appropriately by:

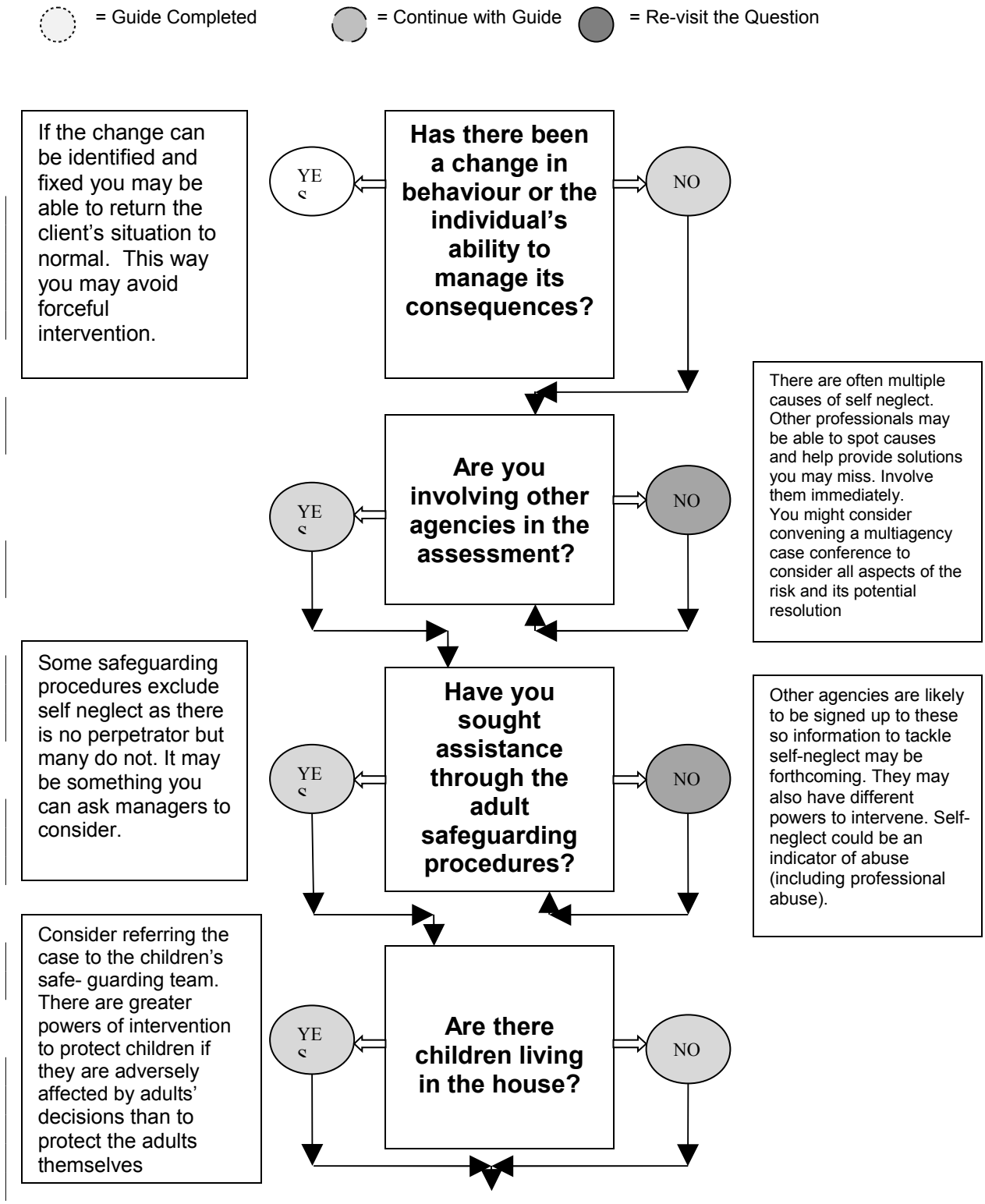
- Ensuring that all personal information that has been disclosed to them by agreement is recorded accurately on that individual's file or electronic record in accordance with Croydon's policies and procedures
- Recording the details of the information and who provided and received the information.
- Ensuring secure storage of all personal information retained within manual or electronic systems
- Ensuring the secure transfer of personal transfer both internally and externally.

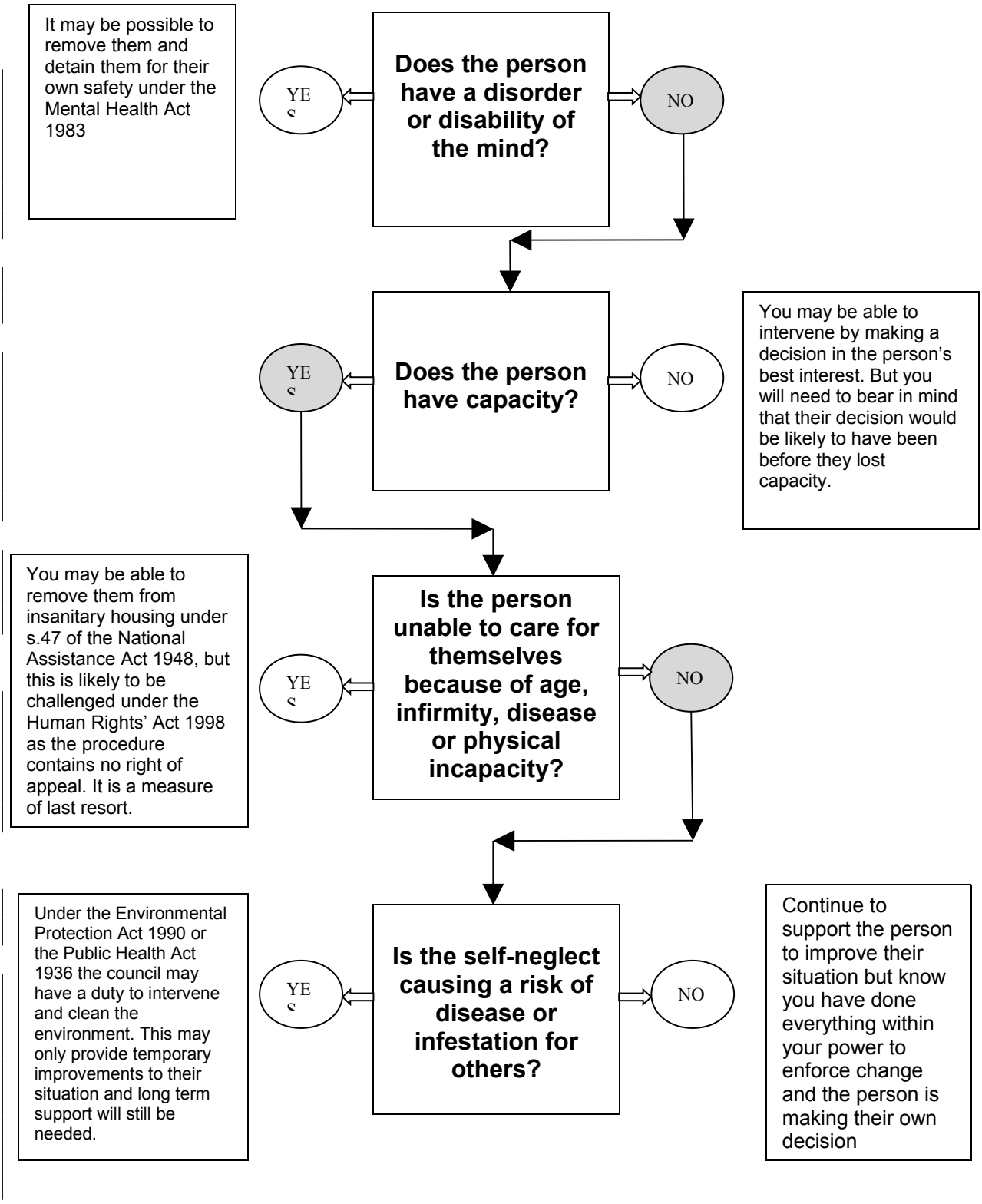
Such procedures must cover;

- Internal and external postal arrangements
- Verbal communications [phone, meetings etc]
- Facsimiles
- Electronic mail
- The access by their employees and others to personal information held in manual or electronic systems, and to ensure that access to such information is controlled and restricted to those who have a legitimate need to have access
- The retention and disposal of records containing personal information.

How Can I Intervene in a Case of Self Neglect?

In cases of suspected self-neglect, social work principles dictate that the first course of action should be to work alongside a person to empower them to change their situation. However, people who neglect themselves are often suspicious of authority and gaining trust and consent to care can take time. There may be times when extreme action is called for.





This interactive guide is derived from a research project commissioned by DH, conducted by Suzy Braye and Michael Preston- Shoot, on Adults who self-neglect. It appeared in 'Community Care' 17 March 2011 and is reproduced here with some minor changes.

Appendix 1- Legislation

1.1 Mental Capacity Act

A person must be assumed to have capacity unless it is established that he lacks capacity. A person is unable to make a decision for himself if he is unable:

a. To understand the information relevant to the decision
b. To retain that information
c. To use or weigh that information as part of the process of making the decision ,or
d. To communicate his decision [whether by talking, using sign language or any other means.]

An inability to satisfy any one of these four conditions would render the person incapable.

Under section 2 of the Mental capacity Act 2007under **Best Interest** the decision maker must:

a. Consider whether it is likely that the person will at some time have capacity in relation to the matter in question.
b. Permit and encourage the person to participate as fully as possible in any act done for him and any decision affecting him.
c. Consider the person's past and present wishes and feelings [and, in particular, any relevant written statement made by him when he had capacity.]
d. Consider the beliefs and values that would be likely to influence his decision if he had capacity, and the other factors that he would likely to consider if he were able to do so.
e. Take in to account, if it is practicable and appropriate to consult them ,the views of :
- anyone named by the person as someone to be consulted on the matter in question or in matters of that kind.
- anyone engaged in caring for the person or interested in his welfare.
- any donee of a Lasting Power Of Attorney granted by the person any deputy appointed for the person by the court.

1.2 Mental Capacity Act Code of Practice

The Mental capacity act codes of practice guidance notes cover:
• Who should assess capacity?
• Whether the person has made an advance decision or given authority to someone else to make this decision.
• How to determine "Best Interest" and when to call a Best Interest meeting.
• The role and function of the Independent Mental Capacity Advocate.
• The role of the Court of Protection.
• The deprivation of Liberty Safeguards.

When assessing someone who self-neglects it is important to remember that

when a person makes a decision which is unwise, inappropriate or places themselves at risk, this does not necessarily mean that they lack capacity to make that decision. Poor decision making alone does not constitute lack of capacity. The assessment of capacity must be based on the person's ability to make a decision in relation to the relevant matter. In case of self-neglect where a person is repeatedly making decisions that place him/herself at risk and could result in preventable suffering or damage, an assessment of capacity should be undertaken.

When a vulnerable adult has been assessed under the mental capacity act as lacking capacity, a referral to the Independent Mental Capacity Advocate will assist to ensure that any action taken must be on the basis of the person's best interest.

The action taken should consider:

• The wishes, feelings, values and benefits of the person who has been assessed as lacking mental capacity.
• The views of family members, parents, carers and other people interested in the welfare of the person lacking capacity, if it is practical and appropriate.
• The views of any person who holds an Enduring Power of Attorney or a Lasting Power of Attorney.
• The views of any Deputy appointed by the Court of Protection to make decisions on the persons behalf.

2. Mental Health Act 2007

Sections of the mental health act may be applicable in cases of self harm or self neglect where the person is also suffering from a mental disorder.
In 2007 the term personality disorder, which may be present in cases of self harm now comes under the definition of "mental disorder".

2.1 Section 135 Mental Health Act

Provides the authority to seek a warrant authorising a Police Officer to enter premises if it is believed that someone is suffering from a mental disorder, is being ill treated or neglected or kept otherwise than under proper control anywhere within the jurisdiction of the court, or being unable to care for himself and is living alone in any such place. This allows the Police Officer with a Doctor and approved Mental Health professional to enter the premises and remove the person to a place of safety for a period of up to 72 hours with a view to an application being made under part II of the Act, or other arrangements for their treatment or care.
A place of safety may include a suitable registered care home.

2.2 Section 7 of the 2007 Mental Health Act – Guardianship

Application for guardianship is made by an approved Mental Health Professional or the person's nearest relative (as defined under the Act). Two Doctors must confirm that:

• The patient is suffering from a mental disorder of a nature or degree that warrants reception into guardianship and;
• It is necessary in the interests of the patient's welfare or for the protection of others.
The guardian must be a local social services authority, or person approved by the social services authority, for the area in which the proposed guardian lives.
Guardianship requires the;
• Patient to live at a place specified by the guardian
• Patient to attend places specified by the guardian for occupation, training or medical treatment (although the guardian cannot force the patient to undergo treatment)
• that a doctor, social worker or other person specified by the guardian can see the patient at home.

3. Section 47 – National Assistance Act 1948

This gives powers to remove a person without consent to a suitable place for assessment and care for up to three months. There must be a genuine public nuisance implying hazard due to a person's unsanitary living arrangements.
For a S47 order to be granted the person has to be:
• Suffering from grave chronic disease
• Or aged and infirm
• Or physically incapacitated
• And be living in unsanitary conditions
• And unable to devote to themselves or not receiving proper care.

This section 47 does however raise ethical issues for practitioners and the language is now considered to be discriminatory and its use lead to a breach of the Human Rights Act. The law commission has recently queried whether section 47 should be removed from statute and a consultation exercise is currently in place to examine this issue.

4. Sections 31-32 Public Health Act (1984)

Section 31 indicates that the occupier of a premises can be required to "cleanse and disinfect" the premises and to disinfect or destroy any unsanitary articles. If the occupier fails to comply, the local authority can take the necessary action and charge the occupier for doing so.

Section 32. The local authority can "cause any person to be removed to any temporary shelter or house accommodation provided by the authority", with or without their consent using reasonable force if necessary.

5. Human Rights Act 1998

Article 8 - Right to respect for private and family life

This states that everyone has the right to respect for his private and family life, his home and correspondence and that there shall be no interference by a

public authority with the exercise of this right except in certain circumstances. Any intervention must accord with the law and be for a range of reasons which include public safety and the protection of health or for the protection of the rights and freedoms of others.

Article 5 - Right to liberty and security

This states that no one should be deprived of his liberty other than in accordance with the procedure prescribed by law or in a number of specified circumstances. One of the provisions relates to ‘lawful detention for the prevention of the spreading of infectious diseases, of service users of unsound mind, alcoholics, drug addicts or vagrants’(5) (I) (e)

6. Environmental Health Protection Act 1990

The Local Authority has a duty to investigate statutory nuisances as set out in s79 of the Act. Where satisfied a statutory nuisance exists the Local Authority must serve a notice imposing requirements. The act contains various powers to take action once inside the premises.