& our Partners,

Committed to Safeguarding Adults

Harrow Safeguarding Adults Board (HSAB)

multi-agency protocol for self-neglect

in partnership with:

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Appendices

Acknowledgment

Harrow SAB would like to thank Professor Michael Preston-Shoot (University of Bedfordshire) and Professor Suzy Braye/Dr David Orr (University of Sussex) for their support in developing this protocol.

1. Introduction

The Care Act 2014 brought self-neglect within the statutorily constituted function of Local Safeguarding Adults Boards (LSAB).

This protocol has adopted the definition of self-neglect as proposed in the SCIE research.

"Self-neglect includes both adults with and without capacity and centres on:

- *lack of self-care – neglect of personal hygiene, nutrition, hydration, and/or health, thereby endangering safety and wellbeing, and/or*
- *lack of care of one's environment – squalor and hoarding, in the context of refusal of services that would mitigate risk of harm"*

The appendices to the protocol include tools which may be helpful for practitioners and their managers i.e. the checklist of actions that should be taken (appendix 1); a suggested agenda for multi-agency meetings and what constitutes a "defensible decision" (appendix 2); statutory options with benefits and burdens (appendix 3); information on self-neglect (appendix 4); a template to raise a safeguarding adult concern (appendix 5); and details of the legislative framework (appendix 6).

2. Partners to the protocol

- Harrow Council: Housing; Environmental Health and Adult Social Care (including the Safeguarding Adults and DoLS Service)
- Central and North West London Mental Health Foundation NHS Trust (CNWL)
- London North West Hospitals University NHS Trust (LNWHT)
- Central London Community Healthcare NHS Trust (CLCH)
- Harrow Clinical Commissioning Group (CCG)
- London Fire Brigade (LFB)
- London Ambulance Service (LAS)
- Metropolitan Police
- RSPCA
- Voluntary sector organisations working in Harrow

3. Rationale for the protocol

Vulnerable adults who self-neglect can have diverse needs that often fall between different agencies and in some cases their problems can be longstanding and recurring. The Harrow Safeguarding Adults Board has produced this protocol to ensure that a consistent and effective approach is taken to this area of work.

Research suggests that what works is a multi agency, multi professional and multi disciplinary approach. Therefore this protocol aims to ensure that there is as much coordination with this client group as possible in order to reduce duplication, prevent them being overlooked and wherever possible to get a positive outcome for the client themselves. It sets the work in the context of the safeguarding adult's policy and procedures, so that there is clarity as to how that framework may assist with the most complex and high risk cases.

4. When will this protocol be used?

This policy will be referred to where an adult at risk is believed to be self-neglecting. An individual may be considered as self-neglecting and therefore maybe at risk of harm where they are:

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

A failure to engage with individuals 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 wellbeing. It can also impact on the individual's family and the local community.

5. Aims of the protocol

- to improve the support to people who self-neglect
- to improve the coordination of services between agencies in taking responsibility for the support of people who self-neglect
- to achieve the best possible outcome for people who self-neglect
- to improve knowledge of the relevant legislation
- to assist managers and staff to make the **best possible decision** in each case with a clear, transparent record as to how it was reached
- to ensure oversight by the Harrow Safeguarding Adults Board (and the Safeguarding Adults Teams in some cases) as required by the Care Act 2014

6. The importance of mental capacity assessments

In order to ensure that the most appropriate response is made in each case, an up to date and decision specific mental capacity assessment is essential.

In many instances the individual is deemed to have mental capacity, but when presented with the risks or statutory actions that may be taken in response to their presenting issue (e.g. living in squalor), refuses to engage in solutions to resolve them.

This may prompt the need for a re-assessment of mental capacity (possibly by another professional) as some people can be difficult to engage because of presenting behaviours associated with diagnosed or undiagnosed mental health problems, cognitive impairments or other anti-social behaviours.

These situations relating to people who self-neglect can often divide professional views into two perspectives - respect for autonomy and self determination, or duty of care and promotion of dignity. The SAB in Harrow recognises that finding the right balance is a difficult judgment best achieved through multi-agency working and cooperation.

7. Multi-agency/multi-professional/multi-disciplinary approach

This approach will ensure oversight of self-neglect case numbers by the Harrow SAB and management of the most complex/high risk cases under the safeguarding process if all other actions have failed to produce a more positive outcome for the person who self neglects:

- worker identifies a person who self-neglects that they are concerned about i.e. that they are refusing services that might mitigate risk of harm
- a “concern” is raised with the Council or CNWL’s Safeguarding Adults (SGA) Team (this will ensure that the Harrow SAB can fulfil its need to collect the statistics and monitor the local numbers)
- the response to the “concern” being raised on the first occasion will be a checklist sent to the referrer (see Appendix 1 of the protocol), so that they are advised about all actions that can/should be taken before enquiries are made by either the Council or CNWL’s SGA Team
- the “concern” is closed at this point
- on-going work continues in the “host” service/s with the person who self neglects using the checklist as a prompt and with relevant legal advice being sought within those agencies if needed
  (a suggested agenda for self-neglect multi-agency meetings including “defensible decision making” advice; guidance about what works in self-neglect cases; the legislative framework that can be used; and a Risk Panel referral form are all attached to this protocol as appendices for reference)
- if all avenues on the checklist have been explored and high risk remains, another “concern” is raised with the relevant SGA Team which will immediately be progressed to a Strategy Meeting under the safeguarding procedures
  (a template form for the safeguarding adults “concern” is attached to this protocol at appendix 5)
- if not all avenues on the checklist have been possible to explore but the “host agency” remains very worried about the level of risk, another “concern” is raised with the relevant SGA Team which will immediately be progressed to a Strategy Meeting under the safeguarding procedures
- the safeguarding adults procedures will be followed to a conclusion
- any resulting protection plan will be transferred to the relevant service for implementation

8 Financial considerations

The financial implications of any agreed actions should be kept out of the multiagency/multi-disciplinary meetings or safeguarding adults case conference. This will allow the operational professionals to focus on the best outcome for the adult who self-neglects and not be distracted by discussions around resources.

Where possible the meeting or case conference will provide a provisional costing of the recommended actions and the relevant service managers or agencies will negotiate who is responsible for funding the actions. Debates and disputes around funding should be resolved outside of the meeting.

If the resource implications are substantial the service manager should escalate to their head of service for a decision before any actions are instigated. The urgency of decision-making will be based on the level of risk that has been identified.

Appendix 1

Harrow Safeguarding Adults Team - screening tool for self-neglect concerns

Self-neglect cases require a multi-agency approach to ensure the best possible outcome for the individual, but not all need to be co-ordinated through the safeguarding adults policies and procedures. This screening tool aims to confirm that appropriate actions are being taken in each situation referred and to highlight those cases that have reached the threshold for safeguarding enquiries to be made.

1. An up to date and decision specific mental capacity assessment has been carried out and recorded

   Yes (Dated……) No

2. An up to date risk assessment has been completed and recorded

   Yes (Dated……) No

3. There is a risk management plan from the risk assessment which has been implemented

   Yes (Dated……) No

4. A multi-agency self-neglect meeting has been held?

   Yes (Dated……) No

5. The action plan arising from the meeting has been implemented and is proving to be unsuccessful

   Yes No

6. Relevant legislation has been considered and applied e.g. through environmental services

   Yes (Dated……) No

7. Relevant services have been tried e.g. district nursing/home care and the case is active/allocated

   Yes (Dated……) No

8. The allocated worker/s have presented the case to the Risk Enablement Panel (REP) and its recommendations have been implemented and unsuccessful

   Yes (Dated……) No

9. Not all the above have been tried and unsuccessful but “host agency” remains very worried about high level of risk – safeguarding “enquiries” to be made by the SGA Team

10. All the above have been tried and unsuccessful – safeguarding “enquiries” to be made by the SGA Team

Appendix 2

Agenda for self-neglect multi-agency/multi-professional meetings

- *introductions etc*
- *up to date background information on the person causing concern (including medical advice where available)*
- *clarification on concerns about self-neglect that have prompted the multi-agency meeting*
- *results of formal (recent/decision specific) mental capacity assessment (including "executive capacity" i.e. the ability of the individual to implement their decision and its implications)*
- *details of the risk assessment completed and risk management plan implemented*
- *are any children at risk – do Children's' Services need to be alerted?*
- *are any animals at risk – do the RSPCA need to be informed?*
- *is there a fire risk? is the local Fire Service aware/involved?*
- *relevant legal/statutory powers to be identified*
- *will legal/statutory powers be applied or used as a contingency?*
- *has consideration been given to legal powers outside social care e.g. environmental health, housing or Police powers? (see Appendix 5)*
- *action plan agreed with named lead officers*
- *date of next meeting where required*
- *has the point been reached where another safeguarding "concern" needs to be raised?*

The meeting will aim to arrive at the "**best possible decision**", as it is acknowledged that in many circumstances there are no easy solutions. It is important that the meeting is accurately recorded so that the thinking and processes used in reaching the decisions made/action points are clear.

A **defensible decision** is one where:

- all reasonable steps have been taken to avoid harm
- a person's mental capacity (including executive capacity) has been taken into consideration and guided by the Mental Capacity Act Code of Practice
- reliable assessment methods have been used and information has been collected and thoroughly evaluated
- decisions are recorded succinctly and in line with the agencies' recording policy, and decisions and related actions are communicated to all relevant parties with outcomes reported back to the lead agency
- practitioners and their managers adopt an approach that is proactive, investigative and holistic, taking into account all aspects of the individual and the wider family and any risks ("professional curiosity")
- all appropriate services are arranged to mitigate identified risk and meet the assessed needs of the individual concerned as far as that person, with capacity to do so, is prepared to accept such services
- any occurrence of a risk event subsequently will require a review of the plan in relation to that risk
- policies and procedures have been followed and due adherence to statute and government and professional guidance is maintained

Appendix 3 Consideration of the statutory options (benefits and burdens)

Possible interventions	Statutory grounds	Benefits	Burdens
Removal from home	Powers of entry under the Environmental Protection Act 1990 and the Public Health Act 1936 to address conditions prejudicial to health		
Eviction	Consider possible breach of the implied terms of a tenancy agreement i.e. not taking proper care of the property. Person may be declared intentionally homeless under the Homeless Persons Act 1977. Eviction may be disputed by reference to the Disability Discrimination Act 1995		
Compulsory admission into hospital under the Mental Health Act 1983	The existence of defined forms of mental disorder, and for the individual's own health or safety or to protect other persons		
Guardianship	Under s.7 of the Mental Health Act 1983 What short term or long term solutions would result, given the limited powers under guardianship provisions?		
Declaration of Mental Incapacity	The Mental Capacity Act 2005 enshrines the presumption of capacity. Incapacity must therefore be proved. Decisions and interventions in respect of people lacking capacity must be in their 'best interests' Ensure "executive capacity" is fully considered		
Any other possible intervention?			

Appendix 4

Background information on self-neglect

(taken from the Social Care Institute of Excellence [SCIE] research 2011)

Capacity is a highly significant factor in both understanding and intervening in situations of self-neglect.

Building good relationships is seen as key to maintaining the kind of contact that can enable interventions to be accepted with time and decision-making capacity to be monitored. Research has highlighted some emerging themes about the perspective of the individuals that self-neglect:

- pride in self sufficiency
- a sense of connectedness to place and possessions
- a drive to preserve continuity of identity and control
- traumatic life histories and events that have had life changing effects
- in some cases, shame and efforts to hide state of residence from others

Thus a wide range of explanations is offered:

- self-neglect may be of physical and/or psychiatric aetiology - there is no one set of variables
- there may be underlying personality disorder, depression, dementia, obsessive-compulsive disorder, trauma response, severe mental distress, and/or neuropsychological impairment
- it may be associated with diminishing social networks and/or economic resources
- physical and nutritional deterioration is sometimes observed, but is not established as causal
- it may reflect once functional behaviours and personal philosophy (pride in self-sufficiency, sense of connectedness, mistrust)
- it may represent attempts to maintain continuity (preserve and protect self) and control

There are tensions between respect for autonomy and a perceived duty to preserve health and wellbeing. The former principle may extend as far as recognising that an individual who chooses to die through self-neglect should not be prevented from doing so; the latter may engage the view that action should be taken, even if resisted, to preserve an individual's safety and dignity. Human rights arguments are engaged in support of either perspective.

The autonomy of an adult with capacity is likely to be respected and efforts directed to building and maintaining supportive relationships through which services can in time be negotiated. Capacity assessments, however, may not take full account of the complex nature of capacity; the distinction in the literature between decisional and executive capacity is not found in practice and its importance for determining responses to self-neglect may need to be considered further. Strong emphasis needs to be placed by practitioners on the importance of interagency communication, collaboration and the sharing of risk.

Interventions

i. **assessment**

Sensitive and comprehensive assessment is of critical importance - an accurate assessment of the client's mental status, partly because lifestyle and personality traits are often involved, sometimes triggered or aggravated by a stressful event such as loss or physical illness. Assessment should include individual health status, family dynamics, depression and/or dementia, cultural beliefs and family coping patterns. Assessment is crucial in evaluating what can be attributed to self-neglect versus underlying illness or disease. Assessment, they suggest, should therefore be multi-agency and multidisciplinary, and components should involve a physical examination, a detailed social and medical history, a historical perspective of the person and the situation, the person's perception of the position, willingness to accept support, observation and self-reporting. Interviewing family members and people in the individual's network may assist in gathering facts and gauging someone's decision-making capacity.

Risk assessment should cover observation of the individual and the home, activities of daily living, functional and cognitive abilities, nutrition, social supports and the environment.

"Carefrontational" questioning will ensure that learned answers to questions do not convince a worker that someone who self-neglects is more independent and coping better than they are. In that context, a level of "professional (concerned) curiosity" i.e. asking why and seeking some demonstrable evidence of ability will provide a more reliable assessment picture.

Although for people assessed as having capacity it may be deemed to be a lifestyle choice to refuse support and services, a level of squalor and/or being in significant pain - should prompt the question "would anyone choose to live like this?"

ii. building a relationship

There is some research evidence that in building a relationship with the person that self-neglects, they can be encouraged to accept some practical help.

iii. risk assessment

It is important for staff to recognise that any risk-taking approach must be balanced with their responsibilities in relation to safeguarding adults and children, care standards and health & safety legislation.

The fundamental principle is that support is provided to individuals to enable them to receive personalised care/support that meets their needs within a framework of risk assessment and management that is collaborative, transparent and enabling.

One of the main reasons for the NHS & Community Care Act (1990) and the closure of large institutions was so that people with long term disabilities could have the same opportunities (and therefore take the same risks) as everyone else. User groups fought for many years for these rights. Personal budgets have increased choice and control even further in recent years.

Most models of risk assessment accept that it is not possible to eliminate risk entirely.

Unlike working with children, adults with mental capacity are able to take "unwise decisions". In the context of risk management, this makes the assessment of mental capacity even more important. Even where people lack capacity, actions taken in their best interest must be least restrictive.

A risk assessment can only identify the probability of harm, assess the impact of it on a vulnerable adult and suggest intervention strategies which may diminish the risk or reduce the harm. Often the focus is upon risk assessment without consideration of risk management - however without a risk management plan the assessment will only identify the risk and not reduce it.

Social workers and care managers are expected to balance rights and responsibilities in relation to risk, regularly re-assess risk, recognise risk to self and colleagues and work within the risk assessment procedures of the Department.

A few principles to consider:

- risk assessment should be based on sound evidence and analysis;
- risk assessment tools should inform rather than replace professional judgement;
- all professionals involved in risk assessment should have a common language of risk and common understanding of the main concepts;
- information sharing for risk assessment should be based on clearly agreed protocols and understanding of the use of such information;
- risk assessment should not be seen as a discrete process but as integral to the overall management and minimisation of risk

Risk factors*:* Static risk factors may include age, gender, offence history, mental health/health record which can be viewed as more reliable indicators of risk as they remain constant.

Dynamic factors can include events which have occurred in an individual's life, such as traumatic events, changes in employment, housing, addiction, new illness/disability. These can often change and in most occasions be outside the control of the individual, and therefore viewed with less reliability in assessing future risk. NB. Historical information about risk is often a good indicator of possible future risk.

Risk Management*:* can be the process by which an organisation tries to reduce negative outcomes and also a means of maximising potential benefits in which the service user can also play an important role in managing the risk.

Appendix 5

Legal Interventions

There will be times when the impact of the self-neglect on the person's health and well-being or their home conditions or neighbours' environmental conditions are of such serious concern that practitioners may need to consider what legislative action can be taken to improve the situation when persuasion and efforts of engagement have failed. Such considerations should be taken as a result of a multi-disciplinary, multi-agency intervention plan with appropriate legal advice.

It is important to note that Section 46 of the Care Act 2014 abolishes Local Authorities' power in England to remove a person in need of care under Section 47 of the National Assistance Act 1948.

Human Rights Act 1998

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

Article 5 – 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.

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.

Environmental Health:

Environmental Health Officers in the Local Authority have wide powers/duties to deal with waste and hazards. They are likely to be key contributors to multi-agency meetings and planning, and in some cases may be the lead agency and act to address the physical environment.

Public Health Acts 1936 and 1961 include:
a) Power for Local Authority to remove accumulations of rubbish on land in the open air (Section 34)
b) power of entry/warrant to survey/examine (Section's 239/240)
c) power of entry/warrant for examination/execution of necessary work (Section 287)
d) power to require vacation of premises during fumigation (Section 36)
e) power to disinfest/destroy verminous articles at the expense of the owner (Section 37)

Environmental Protection Act 1990 remedies include:
a) Litter clearing notice where land open to air is defaced by refuse (Section 92a)
b) Abatement notice where any premise is in such a state as to be prejudicial to health or a nuisance (Section's 79/80)

Town and Country Planning Acts provide the power to seek orders for repairs to privately owned dwellings and where necessary compulsory purchase orders.

Housing Act 2004 allows enforcement action where either a category 1 or category 2 hazard exists in any building or land posing a risk of harm to the health or safety of any actual or potential occupier or any dwelling or house in multiple occupation (HMO). Those powers range from serving an improvement notice, taking emergency remedial action, to the making of a demolition order.

Prevention of Damage by Pests Act 1949 gives Local Authorities a duty to take action against occupiers of premises where there is evidence of rats or mice.

Public Health (Control of Disease) Act 1984 *Section 46* 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.

Housing – Powers of Landlords:
Powers of landlords could apply in Extra Care Sheltered Schemes, Independent Supported Living, private-rented or supported housing tenancies. The
housing provider must be confident that the tenant has mental capacity in relation to understanding their actions before legal action will be possible. If the tenant lacks capacity, the **Mental Capacity Act 2005** should be used.
In extreme cases, a landlord can take action for possession of the property for breach of a person's tenancy agreement, where a tenant fails to comply with the obligation to maintain the property and its environment to a reasonable standard. This would be under either:

- Ground 1, Schedule 2 of the **Housing Act 1985** (secure tenancies); or
- Ground 12, Schedule 2 of the **Housing Act 1988** (assured tenancies)

Also note that the tenant is responsible for the behaviour of everyone who is authorised to enter the property.

Anti-Social Behaviour, Crime and Policing Act 2014:
Section 2(1)(c) of the Act introduces the concept of "housing related nuisance", so that a direct or indirect interference with housing management functions of a provider 25 or Local Authority, such as preventing gas inspections, will be considered as anti-social behaviour. Injunctions, which compel someone to do or not do specific activities, may be obtained under Section 1 of the Act. They can be used to get the tenant to clear the property or provide access for contractors.
To gain an injunction, the landlord must show that, on the balance of probabilities, '*the person is engaged or threatens to engage in antisocial behaviour*, and that it is *just and convenient to grant the injunction for the purpose of preventing an engagement in such behaviour'.*
There are also powers which can be used to require a tenant to cooperate with a support service to address the underlying issues related to their behaviour.

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

a) **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

b) **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

c) **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

d) **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:

a) **to enter and arrest a person for an indictable offence:** Section 17(1)(b) of PACE

b) **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

c) **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

Anti-Social Behaviour 2003: (as amended)

a) 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…'
b) s8 (a) Producing or attempting to produce a controlled drug…'
c) s8 (b) Supplying or attempting to supply a controlled drug to another ……or offering to supply a controlled drug to another….'
d) s8 (c) Preparing opium for smoking
e) s8 (d) Smoking cannabis, cannabis resin or prepared opium'

Mental Health Act 1983 - Sections 2 and 3:

Where a person is suffering from a mental disorder (as defined under the Act) of such a degree, and it is considered necessary for the patient's health and safety or for the protection of others, they may be compulsorily admitted to hospital and detained there under Section 2 for assessment for 28 days. Section 3 enables such a patient to be compulsorily admitted for treatment.

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.

Section 3 – Admission for Treatment:

Duration of detention: six months, renewable for a further six months, then for one year at a time.
Application for admission: by nearest relative or Approved Mental Health Professional in cases where the nearest relative 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
Section 117 allows for aftercare following a Section 3 detention in certain circumstances.

Guardianship - Section 7 of the Mental Health Act 1983:

A Guardianship Order may be applied for where a person suffers from a mental disorder, the nature or degree of which warrants their reception into Guardianship (and it is necessary in the interests of the welfare of the patient or for the protection of other persons). The person named as the Guardian may be either a local social services authority or any applicant.

A Guardianship Order confers upon the named Guardian the power to require the patient to reside at a place specified by them; the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training; and the power to require access to the patient to be given, at any place where the patient is residing, to any registered medical practitioner, approved mental health professional or other person so specified.

In all three cases outlined above (i.e. Sections 2, 3 and 7) there is a requirement that any application is made upon the recommendations of two registered medical practitioners.

Section 135 Mental Health Act 1983:

Under Section 135, a Magistrate may issue a warrant where there may be reasonable cause to suspect that a person believed to be suffering from mental disorder, has or is being ill-treated, neglected or kept otherwise than under proper control; or is living alone unable to care for themselves. The warrant, if made, authorises any constable to enter, if need be by force, any premises specified in the 28 warrant in which that person is believed to be, and, if thought fit, to remove them to a place of safety.

Section 135 lasts 72 hours and is for the purpose of removing a person to a place of safety with a view to the making of an assessment regarding whether or not Section 2 or 3, or 7 of the Mental Health Act should be applied.

Section 136 Mental Health Act 1983:

Section 136 allows police officers to remove adults who are believed to be "*suffering from mental disorder and in immediate need of care and control*" from a public place to a place of safety for up to 24 hours for the specified purposes. The place of safety could be a police station or hospital.

Mental Capacity Act 2005 - Five Key Principles to determine Mental Capacity:

a) 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 it cannot assumed that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

b) Principle 2:

Individuals are supported to make their own decisions – a person must be given all practicable help before they are treated as not being able to make their own decisions. This means that every effort should be made to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that the person is involved as far as possible in making decisions.

c) Principle 3:

Unwise decisions – people have the right to make decisions that others might regard as unwise or eccentric. A person cannot be treated 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.

d) Principle 4:

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

e) Principle 5:

Least 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

The powers to provide care to those who lack capacity are contained in the Mental Capacity Act 2005. Professionals must act in accordance with guidance given under the Mental Capacity Act Code of Practice when dealing with those who lack capacity and the overriding principal is that every action must be carried out in the best interests of the person concerned.

Where a person who is self-neglecting and/or living in squalor does not have the capacity to understand the likely consequences of refusing to cooperate with others and allow care to be given to them and/or clearing and cleaning of their property a best interest decision can be made to put in place arrangements for such matters to be addressed. A best interest decision should be taken formally with professionals involved and anyone with an interest in the person's welfare, such as members of the family.

The Mental Capacity Act 2005 provides that the taking of those steps needed to remove the risks and provide care will not be unlawful, provided that the taking of them does not involve using any methods of restriction that would deprive that person of their liberty.

However, where the action requires the removal of the person from their home then care needs to be taken to ensure that all steps taken are compliant with the requirements of the Mental Capacity Act. Consideration needs to be given to whether or not any steps to be taken require a **Deprivation of Liberty Safeguards (DoLS)** application.

Where an individual resolutely refuses to any intervention, will not accept any amount of persuasion, and the use of restrictive methods not permitted under the Act are anticipated, it will be necessary to apply to the Court of Protection for an order authorising such protective measures.

Any such applications would be made by the person's care manager who would need to seek legal advice and representation to make the application.

Ensure that all steps taken are compliant with the requirements of the Mental Capacity Act. Consideration needs to be given to whether or not any steps to be taken require a **Deprivation of Liberty Safeguards (DoLS)** application.

Emergency applications to the Court of Protection:

An urgent or emergency court order can be applied for in certain circumstances, e.g. a very serious situation when someone's life or welfare is at risk and a decision has to be made without delay. However, a court order will not be obtained unless the court decides it's a serious matter with an unavoidable time limit.

Where an emergency application is considered to be required, relevant legal advice must be sought.

Inherent Jurisdiction:

There have been cases where the Courts have exercised what is called the 'inherent jurisdiction' to provide a remedy where it has been persuaded that it is necessary, just and proportionate to do so, even though the person concerned has mental capacity.

Appendix 6

Harrow Multi-Agency Safeguarding Adults

Concern Form

This form should be completed for all concerns about the alleged abuse or self-neglect in respect of an adult who may be in need of care/support services. ***Please complete as many sections as possible.**

Name of person recording the concern: ……..

Date: …….

Person raising the concern: ……

Relationship to service user / professional designation: ……..

Contact details

Address: ……E-mail:……..

Name of person about whom concern has been expressed: ……

Address: ……

Telephone number: ……

Information about the person whom concern has been expressed:

Is the person about whom concern has been expressed aware of the referral? Yes/No

Information about carers / significant relationships:

Name: ……..

Address: ……..

Telephone number: ……

Relationship: ……...

Is the person already known to Harrow Social Services? Yes/No/Not known (please circle)

Date of last contact if known: ……

Date of last assessment if known: ……

GP:……

Services received from other agencies: ……
Details of concerns about alleged abuse or issues of self-neglect:
What action does the referrer think should be taken?
Is there a need for urgent referral to police? Please record details of referral
If there is a need for urgent referral to medical services for examination / treatment? Please record details of referral
Are there reasons that other urgent action should be taken?
Are other people at risk (please highlight if any children are in the family)?
Please email the completed form to Access Harrow at AHadultsservices@harrow.gov.uk or by fax on 020 8420 9674 Post to: Access Harrow, 4th Floor Civic Centre, Station Road, Harrow, Middlesex HA1 2UL