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North East Lincolnshire High Risk Panel Protocol

1. Introduction

Services and commissioners are seeing an increase in the numbers of people presenting with highly complex pictures of substance misuse, physical and psychiatric comorbidities. In addition, the Care Act 2014 requires a more integrated response to people with issues of self-neglect and who present risk to themselves or others. Accordingly, it is necessary that within NEL an appropriate framework exists that allow a multi-agency multi-disciplinary approach to managing risk in these cases.

Whilst many people are well served by current single agency and multi-agency working practices there is a small but increasing number that require a different, more creative approach involving many agencies and often commissioning responses too. The aim of the panel is to provide an additional multi-agency, multi-disciplinary response, including commissioners, which will agree bespoke packages of care, enable better risk sharing and risk management between agencies and facilitate better outcomes for people.

All Agencies should follow existing legislation and their internal processes, including the Mental Health Act, Mental Capacity Act, Safeguarding Adults, MAPPA, MARAC and Channel/Prevent. These processes will be seen as having primacy and a High Risk Panel (HRP) will only be called if the adult does not fall within these processes or if it is felt that a HRP will reduce the risk of serious harm or death and support the outcome of another process i.e. to support a section 42 safeguarding enquiry.

An HRP should only be used when agencies feel they have exhausted internal mechanisms for managing risk or where formal consultation would enhance the response.

Where there are concerns that the adult at risk has care and support needs (whether or not the local authority is meeting any of those needs), is experiencing, or at risk of, abuse or neglect and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect then a safeguarding referral should be made in the first instance.

The HRP should not be used for managing complaints or anti-social behaviour but for serious harm or death through self-neglect, refusal of services and or high levels of risk taking activity that has an impact upon the individual themselves, or upon others. The Protocol can also be used for managing the impact of No Recourse to Public Funds (NRPF) *Please see Appendix 1.*

The guidance should be used flexibly and in a way that achieves best outcomes for adults at risk promoting a person centred approach. It does not, for example, specify which professionals need to be involved in the process, or prescribe any specific actions that may need to be taken as this will be decided on a case by case basis.

It is recognised that the dilemma of managing the balance between protecting adults at risk from self-neglect/risk taking activity against their right to self-determination is a serious challenge for all services. All actions need to be considered carefully and be proportionate to the level of risk, including the benefits for the individual of risk taking activity.

2. Eligibility Criteria

The HRP Process Flow Chart should be used for guidance. The HRP should only be used where existing Care Management and Health and Social Care involvement have been unable to resolve the issues/risks identified which are causing concern.

The following criteria should be followed when considering referral to the HRP:

- A person must have capacity to make decisions and choices regarding their life
- There is a risk of serious harm or death by severe self-neglect, fire, deteriorating health condition, non-engagement with services or where an adult is targeted by local community, is the victim of Hate Crime or Anti-Social Behaviour or the victim of sexual violence, complex drugs and alcohol use, complex homelessness and where they have declined to engage with a single agency or other enquires include a safeguarding enquiry under Sec42 of the Care Act or the individual or family have no recourse to public funds (NRPF)
- There is a public safety interest or others at risk
- There are a high level of concerns from partner agencies

Serious harm means death or injury (either physical or psychological) which is life threatening and/or traumatic and which is viewed to be imminent or very likely to occur.

The agency that identifies an adult at risk that would benefit from an HRP meeting, will initiate, chair and minute the HRP. The expectation is that the HRP will be truly multi-agency and that each agency will agree on an appropriate representative to attend the HRP when required.

NELC Designated Adult Safeguarding Manager (DASM) should be kept notified of all HRP's convened and provided with copies of papers. The DASM will assist with contact details for agencies, record keeping of the HRP process and audit of the effectiveness of the process.

Consent for holding an HRP should be obtained from the person wherever possible, and the person should be encouraged to participate in the HRP process as fully as possible. The HRP process should be in line with safeguarding process and should be person-centred and outcome-focused. Details must be sought of what the adult at risk's views is and what they would like happen.

An HRP risk management plan is much more likely to succeed if the person has been involved in developing it. Consideration should also be given to gathering the views of other people who are important in the person's life, where consent is provided by the adult at risk.

Each agency should consider whether advocacy is appropriate and should be offered to the adult at risk. However, a lack of consent would not prevent an HRP from taking place. Under common law a person may act to prevent serious harm from occurring if there is a necessity to do so.

3. The Meeting

The purpose of an HRP is to formulate a multi-agency risk assessment and risk management plan to reduce or remove the risk. Consideration must be given as to how the views of the adult at risk can be included. The person or an appropriate advocate must be invited to attend (unless this would significantly increase the risk). It is acknowledged however that due to the nature of people discussed in an HRP engagement is unlikely.

If the threshold criteria are met the lead agency will coordinate the attendance at the HRP. The HRP lead will identify which agencies will be invited to the meeting. Any agency can request attendance of an agency even if the person may be currently unknown to that agency. All partner agencies must ensure appropriate staff are allocated with the required seniority to make decisions on behalf of their organisation.

The HRP lead will chair and record minutes and actions of the meeting and distribute to attendees. It is important to agree timescales for each part of the process. This will be different for each case dependent on individual circumstances. It is also important to ensure that any decisions made are accurately recorded. This could be via a separate risk assessment or within the minutes of the HRP meetings.

If there are children who are part of the household or who are linked to the individual who is being considered under the HRP, Children's Social Care must be invited to the meeting and a Safeguarding Children Referral must be made. Equally if other adults may be at risk Adult's Social Care must be invited to the meeting and an Adults Safeguarding concern must be raised if appropriate.

Where possible, the adult at risk's views and wishes should be included and if they are not present, there should be detailed reasons for this.

Consideration should be given to ensuring appropriate agencies including non-statutory, voluntary sector and local community groups attend to facilitate the best opportunity to encourage positive engagement with the adult at risk.

The following Agenda can be followed when chairing an HRP, however the HRP is a flexible process and the agenda may need to be developed to support the individual case;

- Introductions
- Background to the circumstances of the HRP referral by the referring agency
- Consent & Capacity
- Identify Risks
- Identify Actions
- Appoint a person to contact the client if not in attendance
- Organise Review Date or Exit Strategy

The HRP will develop the risk management plan designed to engage the adult in supporting them to reduce the risks.

It is important that all partner agencies ensure that escalation of risks or changes in a person's circumstances that may increase or decrease risk are shared and actioned in a timely way.

Following a period of implementing the risk management plan, the meeting may reconvene to review and evaluate the plan. The case should not be closed just because the adult at risk is refusing to accept the plan.

It is important to be persistent in HRP cases due to the likelihood that the person may refuse services or support when this is first offered. In conjunction with being flexible and creative, professionals may need to repeatedly try to work with a person to reduce risks. Non-engagement at first contact should not result in no further action being taken at a later date or professionals going back to the person and offering further help or support (particularly where risks may have changed or increased).

Consider the safeguarding of others if you believe anyone else might be at risk i.e. other adults at risk, children and animals.

It is recognised that at times there will be disagreements over the handling of concerns or professional differences. Where there are irreconcilable and significant differences between professionals however, consideration should be given to the escalation process.

Inherent Jurisdiction of the Courts - Adults who have capacity to make decisions which may result in them placing themselves at risk of significant harm or death may require further judicial intervention to ensure their safety. This is most likely to occur if the adult continually fails to engage with professionals and all other options have been exhausted.

There may be occasions when the courts are prepared to intervene in the case of an adult at risk, even when they have the capacity to consent, for example, where an adult is receiving undue pressure or coercion from a third party.

Legal advice should always be sought when referral to the courts be a consideration.

4. Record keeping

Each agency is expected to manage their own records and ensure any HRP minutes are attached to individual's records.

It is an expectation that any immediate risks will be addressed urgently following the meeting and the HRP risk assessment and risk management plan will be circulated within a period of 72 hours to all interested parties including the DASM.

Any other meeting notes or minutes should be circulated within one week. Individual agencies will ensure that this information is attached to the adult's record.

5. Information Sharing

The Care Act 2014 states that information sharing should be consistent with the principles set out in the Caldicott Review published 2013 *“Information to share or not to share: the information governance review”* ensuring that:

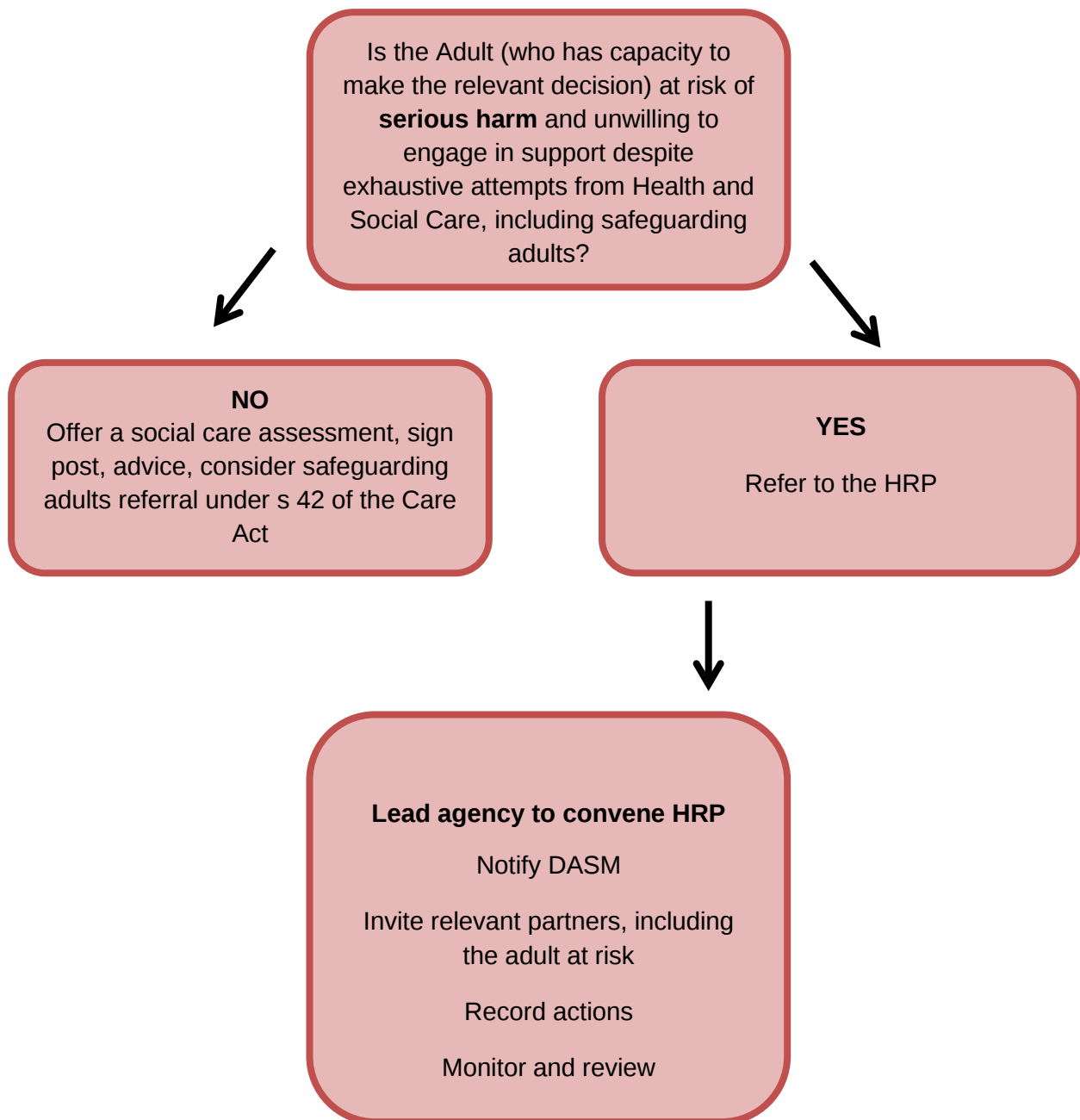
Information will only be shared on a ‘need to know’ basis when it is in the interests of the adult:

- Confidentiality must not be confused with secrecy.
- Informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement.
- It is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults may be at risk.
- Where an adult has refused to consent to information being disclosed for these purposes, then practitioners must consider whether there is an overriding public interest that would justify information sharing (See 9 Golden Rules) and wherever possible the Caldicott Guardian should be involved.
- Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework
- Principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the welfare of an adult. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of the adult then a duty arises to make full disclosure in the public interest.

The decisions about what information is shared and with who will be taken on a case by-case basis. Whether information is shared and with or without the adult at risk’s consent. The information shared 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 recorded proportionately demonstrating why a course of action was chosen – I did this because..... I ruled this out because..... I chose this because.....
- Be shared securely.

High Risk Panel Process



Appendix A

No recourse to public funds (NRPF) Guidance

The risk posed to individuals and families who have **No recourse to public funds (NRPF)** cannot be underestimated.

They are exposed to the risk of neglect, abuse and exploitation due to their circumstances. Those with NRPF are at high risk of homelessness and destitution because they cannot access mainstream housing and welfare benefits.

As such this appendix to the High Risk Panel Protocol has been developed and agreed in order that the HRP process can be utilised by those agencies who find themselves dealing with this issue. It allows for agencies to call an HRP in order to consider cases and explore options for dealing with such cases.

The protocol of the HRP directing it should only be used when agencies feel they have exhausted internal mechanisms for managing risk or where formal consultation would enhance the response. It should still be followed in cases of NRPF.

The only addition to the requirements of the HRP Protocol with regard to NRPF is an expectation for agencies to be available for an HRP as soon as possible or within 72 hours at the latest.

No recourse to public funds (NRPF) is a condition imposed on someone due to their immigration status. Section 115 Immigration and Asylum Act 1999 states that a person will have 'no recourse to public funds' if they are 'subject to immigration control'.

A person will be 'subject to immigration control' if they have:

- Leave to enter or remain in the UK with the condition 'no recourse to public funds: Spouse visa, student visa, limited leave granted under family or private life rules
- Leave to enter or remain in the UK that is subject to a maintenance undertaking: Indefinite leave to remain as the adult dependent relative of a person with settled status (five year prohibition on claiming public funds)
- No leave to enter or remain when the person is required to have this: Visa overstayers, illegal entrants

Public funds that a person with NRPF cannot claim

A person with NRPF is prohibited from accessing specified welfare benefits and public housing. These are set out in section 115 Immigration and Asylum Act 1999 and paragraph 6 of the Immigration Rules, although some exceptions apply.

There are only a small number of services offering specialist support experience high levels of demand. It is likely that there are also NRPF clients who do not disclose their situation,

particularly in open access services providing basic facilities such as food and showers without a needs assessment.

Public funds that a person with NRPF cannot claim

A person with NRPF is prohibited from accessing specified welfare benefits and public housing. These are set out in section 115 Immigration and Asylum Act 1999 and paragraph 6 of the Immigration Rules, although some exceptions apply:

Welfare benefits		
Attendance allowance	Disability living allowance	Personal independence payment
Carer's allowance	Domestic rate relief (Northern Ireland)	Severe disablement allowance
Child benefit	Housing benefit	Social fund payment - includes: • Budgeting loan • Sure start maternity grant • Funeral payment • Cold weather payment • Winter fuel payment • Crisis loan (Northern Ireland) • Community care grant (Northern Ireland)
Child tax credit	Income-based employment and support allowance	State pension credit
Council tax benefit	Income-based jobseeker's allowance	Universal credit
Council tax reduction	Income support	Working tax credit
Discretionary welfare payment made by a local authority in England, Scotland & Northern Ireland (in replacement of social fund crisis loans and community care grants; this scheme is yet to be implemented in Northern Ireland)		
Housing		
An allocation of local authority housing provided under the Housing Act 1996 (or equivalent legislation in Scotland and Northern Ireland)	An allocation of a housing association property provided via the local authority rehousing list	Local authority homelessness assistance provided under the Housing Act 1996 (or equivalent legislation in Scotland and Northern Ireland)

Further information

More detail about the exceptions and when public funds may be claimed is set out in:

The Home Office Modernised Guidance, [Public funds](#)

Find a [welfare benefits or housing adviser](#) for specialist advice.

When can housing and financial support be provided?

There are provisions which require local authorities to provide some people with NRPF with housing and/or financial support in order to prevent homelessness or destitution. Such assistance can be provided to:

Families, where there is a child in need (for example, because the child is homeless or the parent cannot afford to meet the family's basic living needs)

Young people who were formerly looked after by a local authority, for example, because they were an unaccompanied asylum seeking child (UASC), or other separated migrant child

Adults requiring care and support due to a disability, illness or mental health condition

The legislation which sets out these responsibilities differs in England, Wales, Scotland and Northern Ireland and is set out in the table below.

Legislation which sets out eligibility requirements for support				
	England	Wales	Scotland	Northern Ireland
Families with a child in need	Section 17 Children Act 1989	Section 37 Social Services and Well-being (Wales) Act 2014	Section 22 Children (Scotland) Act 1995	Article 18 of the Children (Northern Ireland) Order 1995
Young person formerly looked after by the local authority	Sections 23C, 23CA, 24A, 24B Children Act 1989	Sections 103-118 Social Services and Well-being (Wales) Act 2014	Sections 29 & 30 Children (Scotland) Act 1995	Article 35 or 36 of the Children (Northern Ireland) Order 1995.
Adults with need for care and support	Part 1 of the Care Act 2014	Section 35 Social Services and Well-being (Wales) Act 2014	Section 12 and 13A Social Work (Scotland) Act 1968	Article 7 and 15 The Health and Personal Social Services (Northern Ireland) Order 1972

Although people with NRPF are able to receive help from social services, some people can only receive support if this is necessary to prevent a breach of their human rights. This is because an [exclusion](#) applies to some people depending on their nationality and immigration status.

Is the person in a group excluded from social services support?

When a person or parent is in a group excluded from social services support, this means that social services can only provide housing and financial support when this is necessary to prevent a breach of the person or family's human rights or rights under the European

treaties. When the exclusion applies, social services will need to carry out a human rights assessment as well as a needs assessment to establish whether help can be given.

The five groups are:

- European Economic Area ([EEA](#)) nationals (not British citizens)
- People who are unlawfully present in the UK (including: visa overstayers; illegal entrants and refused asylum seekers who claimed asylum in-country, rather than at port of entry)
- People with refugee status that has been granted by an EEA country
- Refused asylum seekers who have failed to comply with removal directions
- Refused asylum seeking families that the Home Office has issued with certification confirming that they have failed to take steps to leave the UK voluntarily

What does the exclusion mean in practice?

When people with NRPF approach social services for assistance, the council will check their immigration status with the Home Office in order to establish whether the [exclusion](#) applies. Local councils are required by law to inform the Home Office of anyone presenting who is unlawfully present, a refused asylum seeker who has failed to cooperate with removal directions, or a refused asylum seeking family certified by the Home Office as having not taken steps to leave the UK.

If a person requesting assistance is in an [excluded group](#), social services will undertake a human rights assessment, and will firstly consider whether the person or family can freely return to their country of origin. Things that prevent this include:

- A pending human rights application made to the Home Office or a subsequent appeal
- Inability to travel due to illness or medical condition
- Lack of travel or identity documents