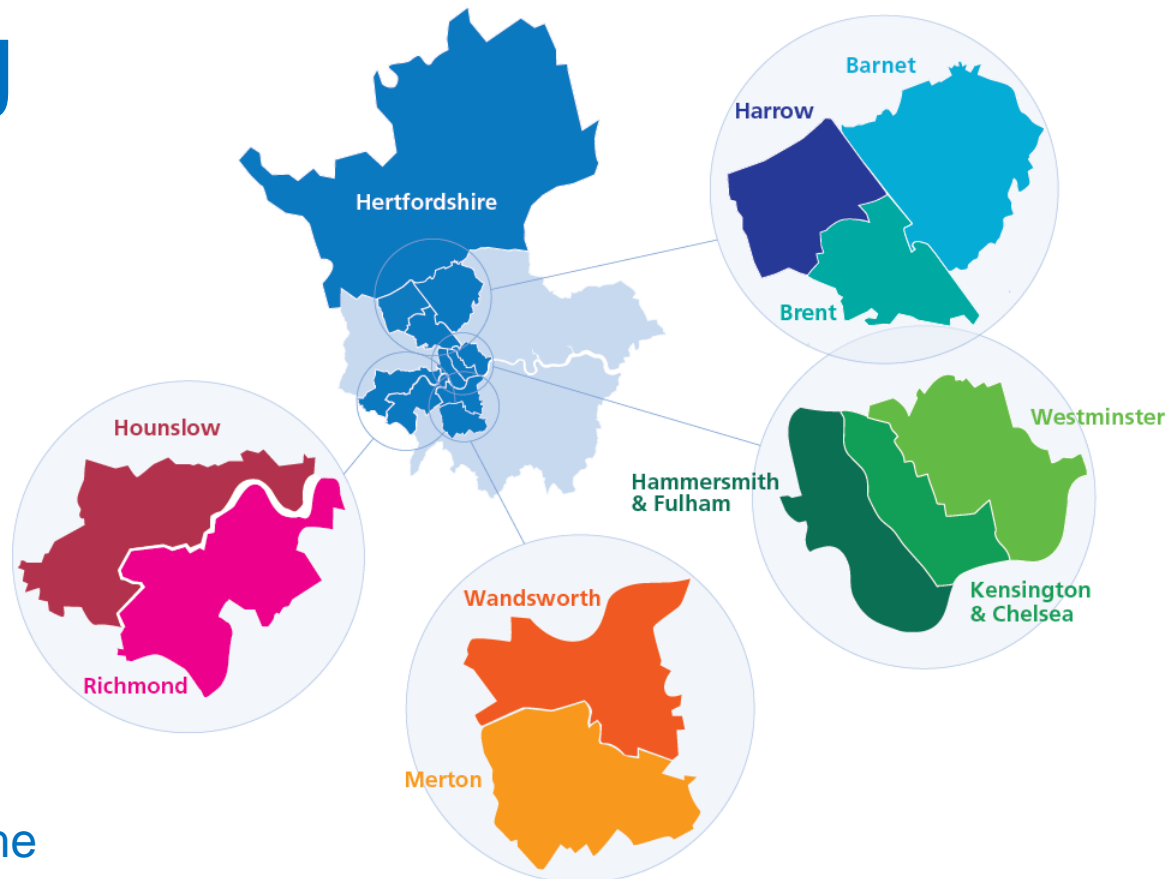


Mental Capacity and Safeguarding Workshop

Haidar Ramadan
Head of Adult Safeguarding



Your healthcare closer to home

Housekeeping

- Mute your MT
- Switch off Camera if you have connection problem
- Use the raised hand function so you can ask questions and participate.
- Use the chat function to ask questions or post comments.
- Have your mobile ready for Slido

Introductions

Please post in the chat:

- Name
 - Profession/position
 - Location
- 
- A series of approximately seven light blue curved lines that originate from the right side of the 'Location' bullet point and sweep upwards and to the right, extending towards the bottom right corner of the slide.

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How confident are you now to conduct Mental Capacity assessment?



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What do we mean by mental capacity?



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Do you need to have Mental Capacity in order to give consent?



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Mental Capacity

What do we mean by
'mental capacity'?



Mental Capacity Act 2005

- 1, 2 & 3 are all about me
- 4 & 5 you do with me if I lack capacity.

The Mental Capacity Act 2005 defines this simply as:

“the ability to make a decision”



Do you need to have Mental Capacity in order to give consent?

- ☒ Yes
- ☐ No
- ☐ Maybe



Why MCA 2005 is important

- Human rights
- Voice of the patient
- Protect the patient
- Structure and mechanism to help patients who can not decide for themselves
- Protect health and social care staff

What decisions does the Act cover?

The Act covers day to day decisions made on behalf of someone such as:

- What they may wish to wear
- What they might like to buy during a shopping trip
- What foods or drinks they might like to have



What decisions does the Act cover?

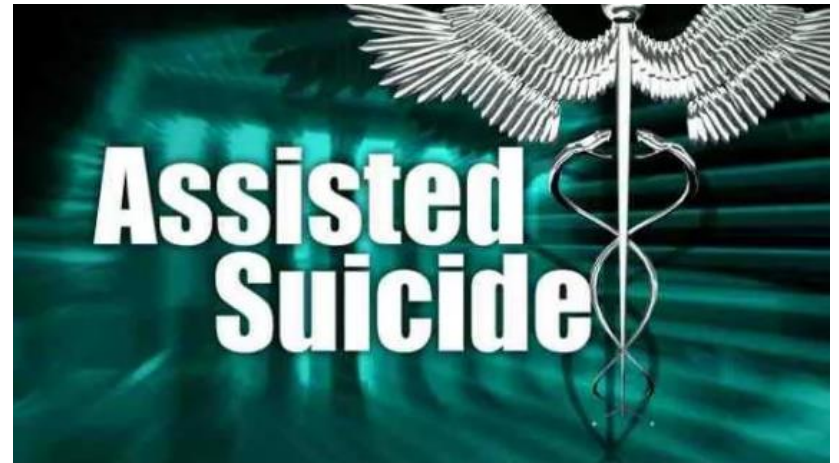
HOME

It also covers more serious decisions made on behalf of someone such as:

- Where they might reside
- Whether they were to receive some form of operation, treatment, or care and support



What decisions doesn't the Act cover?



Mrs Smith

- 80 years old
- Possible Dementia, slow decline
- Lives at home alone, daughter visit.
- Has 1 daily visit by carers
- Had fall, flat can not be adapted
- Refusing watch alarm and becoming unkempt
- Flat becoming cluttered and dirty



How many Principles underpinning the MCA



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The 5 Principles underpinning the MCA

The 5 Principles underpinning the MCA

1. Always assume a person has capacity unless otherwise proved
2. Take all practicable steps to enable people to make their own decisions
3. Do not assume incapacity because of an unwise decision
4. Always act, or decide, for a person without capacity in their best interests
5. Consider actions to ensure the less restrictive option is taken



You are protected

The Act makes it clear that if you follow these 5 Principles, and evidence this in your assessment, then you are protected by the Act and your work would be deemed as defensible



What conditions or presentation might lead you to question mental capacity?



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When to assess for Mental Capacity?

When to assess?

Mental Capacity



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When to assess?

- Capacity should be assessed when a **specific decision** needs to be made and when capacity is in doubt. For example:
 - This may be due to someone's behaviours
 - A concern may be raised by a third party that the person might be lacking capacity
 - The patient may already be shown to be lacking capacity with regards to other decisions previously
- We must assess where there is **reasonable doubt** that someone requires an assessment
- The starting point for each new decision is **the presumption of capacity**
- All **practicable help** must be given to help them make the decision before the patient is deemed to lack capacity

Who can conduct Mental Capacity assessment?



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Assessing capacity

Any registered practitioner can assess capacity depending upon the treatment or care delivery required.

The two-stage test

Stage 1 – Functional Test

- With all possible help, is the person able to understand the information relevant to the decision?
- Is the person able to retain the information long enough to make the decision?
- Is the person able to weigh up the information as part of the decision making process?
- Is the person able to communicate the decision?

If the patient fails any one of these 4 parts, continue onto Stage 2

Stage 2 – Diagnostic Test

- Is there an impairment of the mind or brain, or is there some sort of disturbance affecting the way their mind or brain works?

If you are able to link that the patient failed any one of the four parts in Stage 1 because of an impairment of the mind or brain from Stage 2, then you have proven that someone lacks capacity to make a specific decision

Assessing capacity Stage 1



The Mental Capacity Act

Understand

Retain

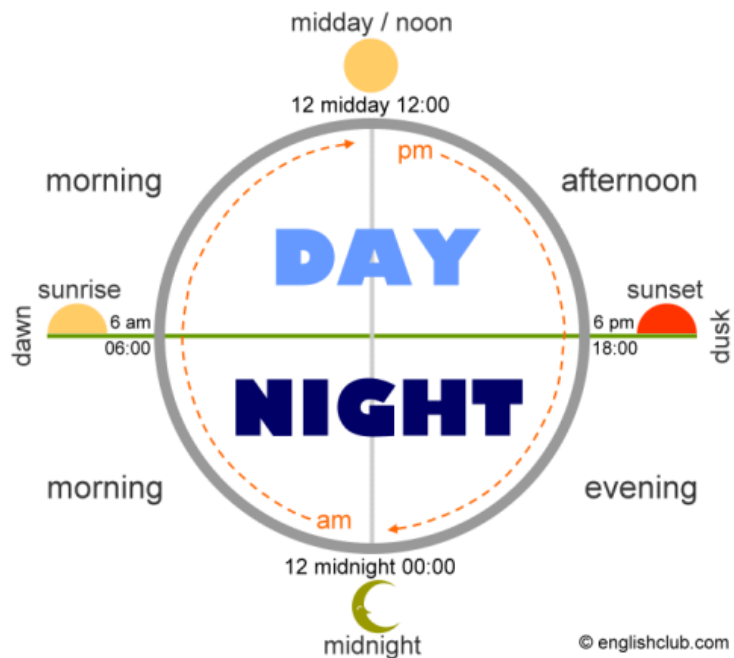
Weigh

Communicate

Stage 2 – Diagnostic Test - Impairment or disturbance of the mind or brain (does not necessarily require a formal diagnosis)

- Conditions associated with some form of mental illness
- Dementia
- Learning disabilities
- Long term effects from brain damage
- Physical or medical conditions that cause drowsiness, confusion or loss of consciousness
- Delirium
- Concussion
- Symptoms of drug or alcohol use
- Stroke

Taking all practicable steps



Taking all practicable steps

- Make all relevant information relating to the decision accessible for the patient
- Take into account cultural needs
- Try to choose the best time of day
- Carry it out somewhere they feel comfortable
- Consult with family and friends who know the patient well – maybe having them present helps them feel at ease
- Give the patient all the information they need, but not too much, making sure you include possible consequences of making, or not making, the decision
- Consider the effects of any medication or treatment on their decision making abilities

Completing the CLCH Mental Capacity form

- The decision must be as specific as you can make it
- Include quotations from the person themselves where possible
- Show how you've taken practicable steps to support the person – e.g the time of day you went, the setting it took place in, other people involved
- Attach any supporting evidence with your completed MCA form of how you may have tried to engage the patient and how you offered them the information they needed to make the decision
- Be specific about the impairment the patient has and about how this impairment affects their ability to make a decision
- Please use the FACE MCA form for more complex decisions.

CLCH Mental Capacity assessment form

This assessment form is to be completed by staff when assessing a patient's mental capacity in relation to more basic, day to day decisions e.g. consenting to prescribed care, accepting required equipment, consenting to assessments.

This assessment can be used to support staff in evidencing their mental capacity assessment for patients and must be saved to the patient's electronic file.

Patient name:		Patient DoB:	
Patient NHS no:			
Staff member completing form:		Service/Ward:	

The decision

What is the specific decision to be made?

--

The four stage 'functional test'

Is the patient able to understand the information related to the specific decision? Give evidence of the information related to the decision that you provided the patient, show practicable steps taken.

--

Can the patient retain the information related to the decision?

--



How confident are you now to conduct Mental Capacity assessment?



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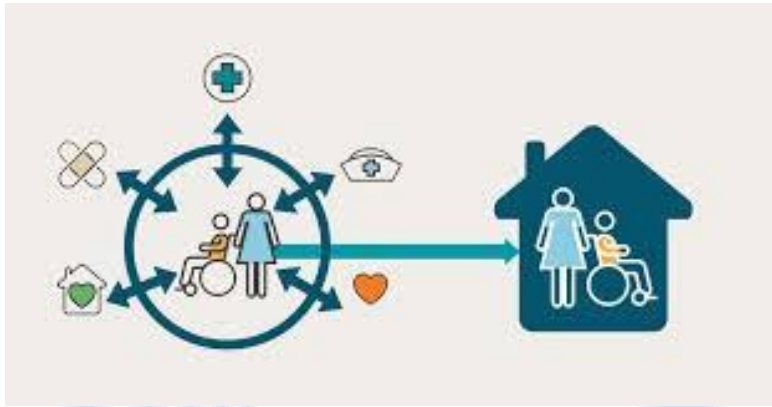
What is next?

MCA Assessment:

- The patient **has** capacity
- The patient **lacks** capacity
- Inconclusive assessment



Mrs Smith



VectorStock®

VectorStock.com/1019741

What is Best Interests

When to make a Best Interests decision on behalf of someone?

Who has legal powers over patients who lacks capacity to make decisions?



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Acting on behalf of someone lacking capacity



Lasting Power of Attorney (LPA) – when one person wants to give another person authority to make decisions on their behalf.

Deputies – when the Court of Protection believes that a person must be appointed to make on going decisions on behalf of someone whose condition makes it likely they will lack capacity to make some decisions for themselves



Lasting Power of Attorney (LPA)

- An LPA must be chosen by the person whilst they have the mental capacity to choose
- The LPA must be registered with the Office of Public Guardian and can be registered for either **Personal Welfare** or for **Property and Financial Affairs**
- The LPA must adhere to the principles set out in Section 1 of the MCA 2005
- The LPA only comes in to play when it is deemed that the person lacks the mental capacity to make a specific decision and the LPA will then be able to make that decision on behalf of the person

This is a copy of an LPA document.

The Office of the Public Guardian logo has recently changed.

A registered document will feature the **VALIDATED-OPG** stamp on every page of the document

Page 1 of 12 – Keep all pages of this form together

Tuesday 06 August 2013



Office of the
Public Guardian

OFFICE OF THE
PUBLIC GUARDIAN
15 JAN 2016
REGISTERED

For OPG office use only

LPA HW
registered on 15/01/2016

OPG reference
number 3999999

Lasting power of attorney for health and welfare

About this lasting power of attorney

This lasting power of attorney allows you to choose people to act on your behalf (as an attorney) and make decisions about your **health and personal welfare**, when you are unable to make decisions for yourself. This can include decisions about your healthcare and medical treatment, decisions about where you live and day-to-day decisions about your personal welfare, such as your diet, dress or daily routine.

If you also want someone to make decisions about your **property and financial affairs**, you will need a separate form (downloadable from our website or call 0300 456 0300).

Who can fill it in?

Anyone aged 18 or over, who has the mental capacity to do so.

Before you fill in the lasting power of attorney:

1. Please read the guidance available at gov.uk/power-of-attorney or by calling 0300 456 0300. See, for example, the **Lasting power of attorney creation pack** or other relevant guidance booklets which are all available online or by post.
2. Make sure you understand the purpose of this lasting power of attorney and the extent of the authority you are giving your attorneys.
3. Read the separate **Information sheet** to understand all the people involved, and how the three parts of the form should be filled in.
4. Make sure you, your certificate provider(s), and your attorney(s) have read the section on page 2 called **information you must read before filling in their relevant part**.



This lasting power of attorney could be rejected at registration if it contains any errors.

Checklist

See the information sheet for guidance on all the people involved

Part A: about you, the attorneys you are appointing, and people to be told

How many **attorneys** are you appointing? Write in words.

Two

How many **replacement attorneys** are you appointing? Write in words or write 'None' if this does not apply

None

How many **people to be told** are you choosing? Write in words from 'None' to 'five'. If 'None' you must have two certificate providers in part B.

Three

Part B: about your certificate providers

How many **certificate providers** do you have? (Tick one box)

☒ One OR ☐ Two

If you have used any continuation sheets each one must be signed and dated.

Attached to the back of this lasting power of attorney are:

(Write the number of each) continuation sheet A1

0

continuation sheet A2

0

continuation sheet A3: HW 2 pages

0

continuation sheet B

0

Total number of continuation sheets

0

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Helpline

0300 456 0300

gov.uk/power-of-attorney

Valid only with Office of the Public Guardian stamp

Provisions to support vulnerable people

- **Independent Mental Capacity Advocates (IMCA)**
- **Care Act Advocate**
- **Advanced decisions**



Best Interests

When making a Best Interests decision on behalf of someone, the Act states:

- You must encourage participation as much as possible
- You must identify all relevant circumstances
- You must find out the person's views e.g. past and present wishes, any values and beliefs
- You must avoid discrimination
- You must assess whether they will regain capacity
- You must not be motivated in any way to bring about a person's death
- You must consult others (family, friends, advocates)
- You must avoid restricting the person's rights

Deprivation of Liberty Safeguards (DoLS)

- Article 5 of the European Convention on Human Rights – Right to liberty and security
- Someone aged 18 and over living in England and Wales
- Someone with a mental disorder and lacking capacity to consent



The 'Acid Test'

What does a deprivation of liberty look like?



1. Is the person subject to continuous supervision and control?
 - This does not necessarily mean being on 1:1 but that staff reasonably know where a person is at all times and control the care situation
2. Is the person free to leave?
 - Consider if you would allow the person to leave the home or hospital independently. The person does not need to be requesting, attempting, or even physically able to leave. You must view the question as 'if they were able to leave and asked to do so, would you let them?'

What does this mean for us?

- Complete a DoLS Form 1, please also submit a Datix and email our safeguarding to inform us that you have done this
- The DoLS process does not cover patients in:
 - Supported living schemes
 - Extra Care housing schemes
 - Shared Lives schemes
- COP for community DoLS

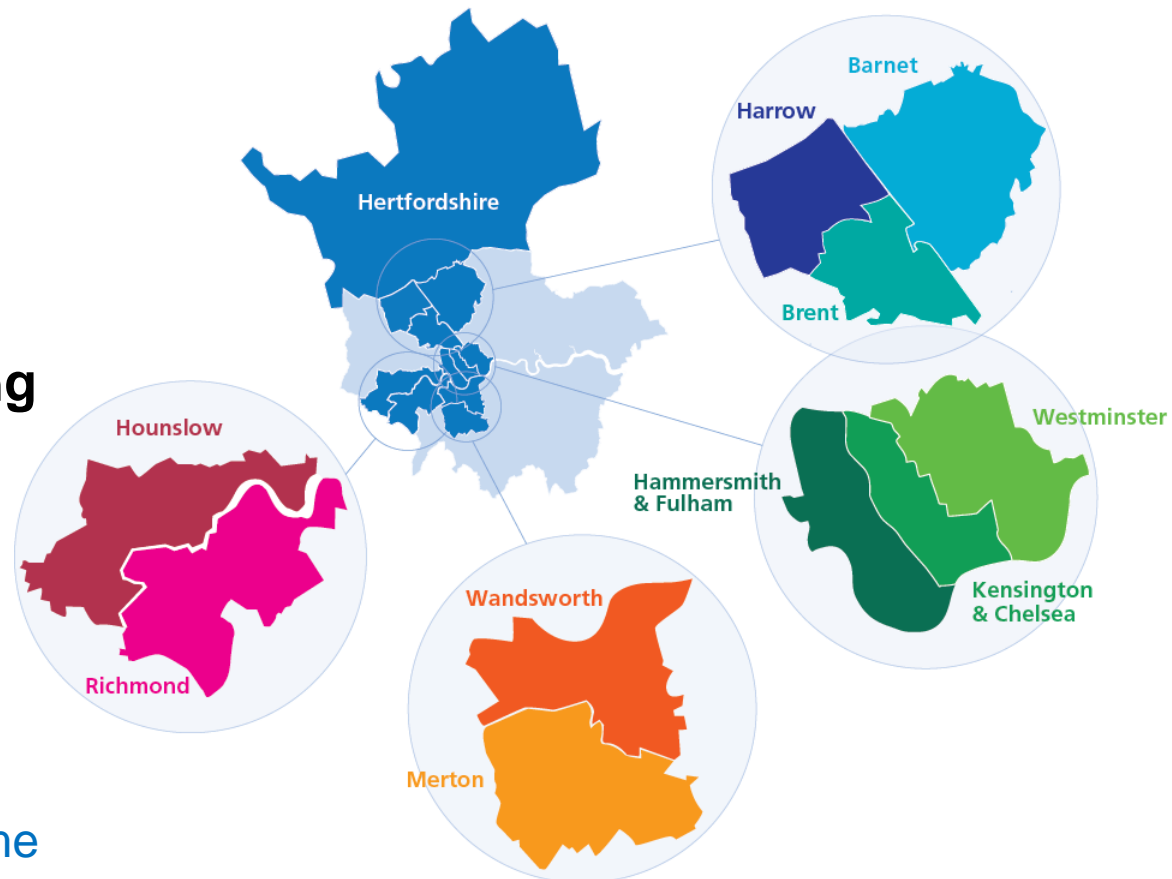
DoLS

Deprivation of Liberty
Safeguards



Adult Safeguarding

Haidar Ramadan
Head of Adult Safeguarding



Your healthcare closer to home

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The Aim of the session

Main concerns

Is it a safeguarding matter?

Why?

Next Steps / Actions

Which other agencies/professionals required?

What safeguarding means to you in **ONE** word?



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Who has the responsibility of safeguarding?



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Adult at risk/vulnerable adult

A person aged 18 or over who is in need of **care and support** regardless of whether they are receiving any, and because of those needs is **unable to protect themselves** against abuse or neglect.



What is safeguarding?



A definition of Safeguarding

“Safeguarding means protecting an adult’s right to live in **safety**, free from **abuse and neglect**. It is about people and organisations **working together** to prevent and **stop** both the risks and experience of **abuse or neglect**, whilst at the same time making sure that the **adult’s wellbeing** is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.”

Safeguarding

Safeguarding is
Everyone's
Responsibility



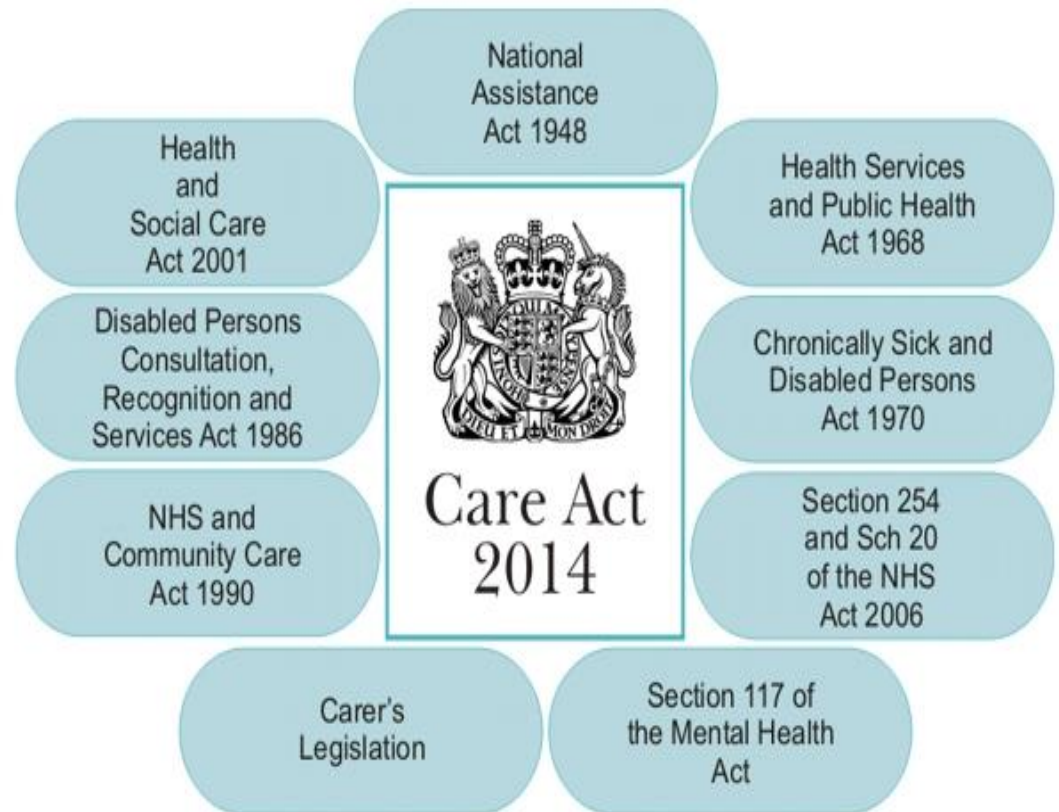


Care Act 2014

Relevant guidance and legislation

Care Act (2014)

This replaced No Secrets by **placing statutory duties** on local authorities regarding safeguarding vulnerable adults.



Care Act (2014)

The Care Act (2014) establishes **statutory duties** and functions to ensure local authorities can robustly safeguard vulnerable adults:

- When satisfied that there is a vulnerable adult at risk, local authorities must make enquiries under Section 42 of the Care Act 2014 if they believe an adult is, or is at risk of, being abused or neglected.



Care Act (2014)

Local authorities will set up a **Safeguarding Adults Board (SAB)**. S43



Richmond and
Wandsworth
**Safeguarding
Adults Board**



**Merton
Safeguarding
Adults Board**

Care Act (2014)

- The SAB will carry out **Safeguarding Adult Reviews (SAR)** S44 when people die, or are seriously injured, as a result of neglect or abuse and there's a concern that the local authority, or its partners, could have done more.



research
in practice
for adults

Example of local SARs



Richmond and
Wandsworth
**Safeguarding
Adults Board**

Mrs K: Frail elderly discharged in Christmas Eve, 5 days later admitted to hospital and died of PU sepsis.

- Mediquip delivery
- DN referral
- POC
- Daughter struggled as carer



**SAFEGUARDING ADULTS
EXECUTIVE BOARD**

Mr X: young man with LD and physical disability, almost died due to neglect refusal of mother of care from SS and NHS:

- MCA/voice of the patient
- No Access
- Aggression towards staff
- Think family

Principles of Safeguarding

1. Empowerment
2. Prevention
3. Proportionate
4. Protection
5. Partnership
6. Accountable



Who is eligible under Adult Safeguarding?



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Who is eligible under Adult Safeguarding?

‘Adult at Risk’ is any person over the age of eighteen years old and is deemed to be a vulnerable adult under the Care Act 2014 by using the following **‘Three point test’**:

1. Have needs for care and support (whether or not the [local] authority is meeting any of those needs).
2. Is experiencing, or is at risk of, abuse or neglect, and
3. As a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it. (S42. Care Act 2014).

Who can potentially cause abuse or neglect to vulnerable Adults?



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List types / categories of abuse



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Categories of abuse



Categories of abuse

- Physical abuse
- Sexual abuse
- Psychological/Emotional abuse
- Financial/Material abuse
- Discriminatory abuse
- Neglect/Acts of omission
- Domestic violence or abuse
- Modern slavery
- Organisational or institutional abuse
- Self-neglect/Hoarding
- Female Genital Mutilation (FGM)

What nationality were the most commonly reported victims of modern slavery in 2018 in the UK?



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Reasons for Exploitation

Sexual
Exploitation

Forced
Labour

Servitude

Begging

Organ
Harvesting

Benefit
Fraud

Forced
marriage

Forced
Criminality

UK slavery network 'had 400 victims'

5 July 2019

f Share



uk-england-birmingham-48884927



Pressure ulcers

- Why it is a safeguarding matter?


Department
of Health &
Social Care

Safeguarding Adults Protocol

Pressure Ulcers and the interface with a
Safeguarding Enquiry



Workshop Pressure Ulcer and Safeguarding



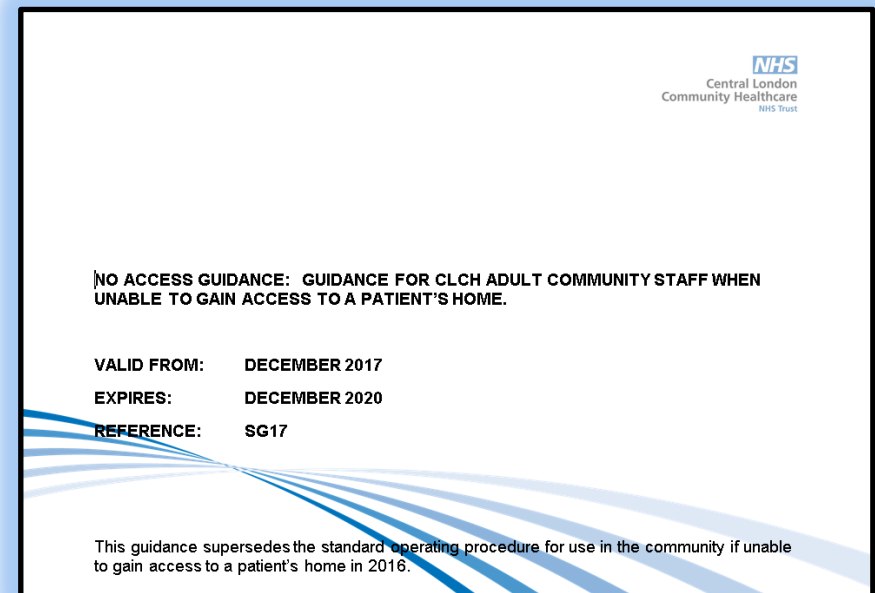
Thursday 19/11/2020

Time: 2:30pm-3:30pm

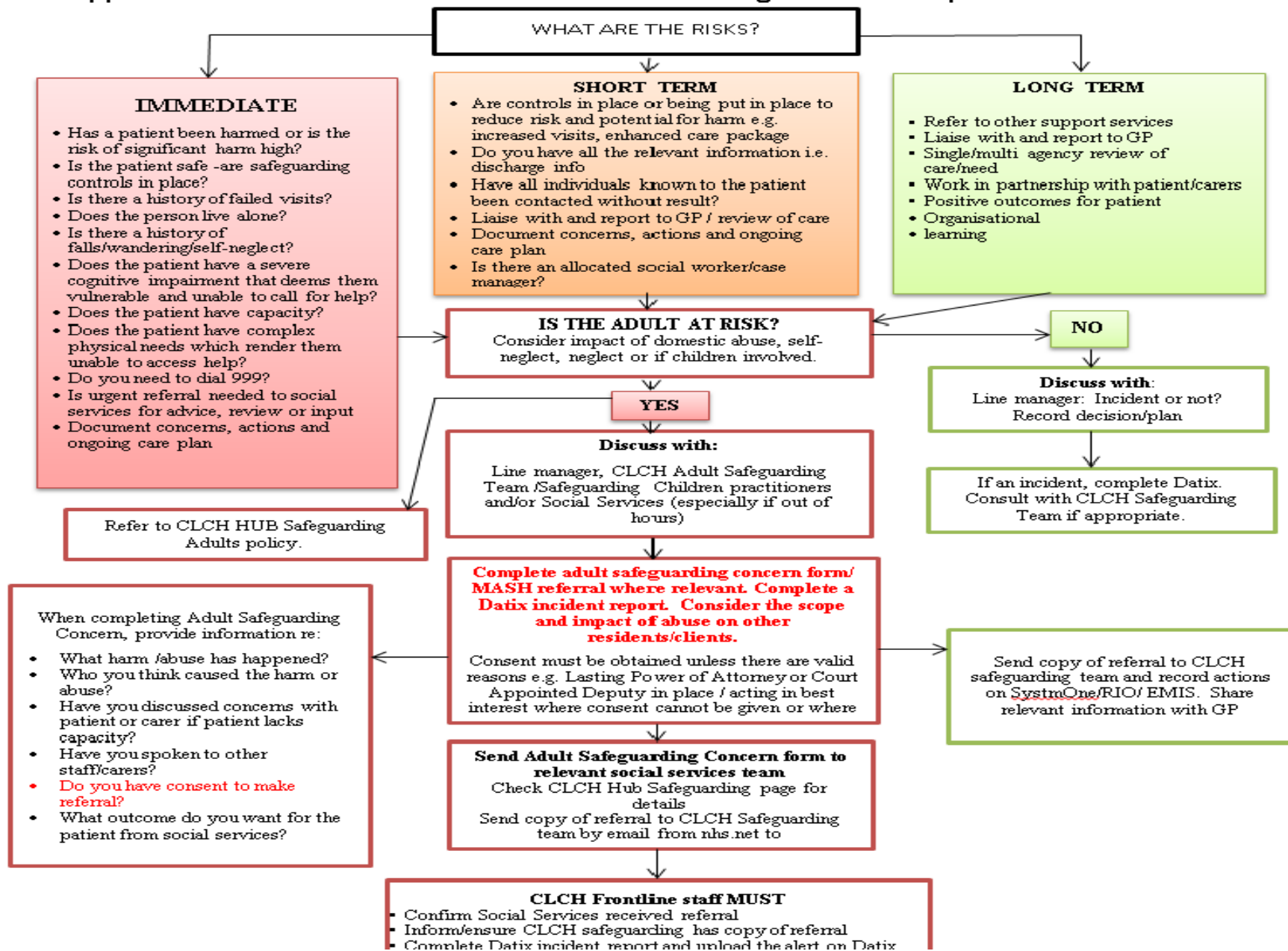
Delivery: MT

No Access Guidance

- **Difficulty in gaining access**
- **Escalating concerns**
- **Emergency situations**
- **Escalation to the Police**



Appendix 1: Risk Assessment Tool – When unable to gain access to patient



When aggressive behaviour becomes Safeguarding matter?



Do you always feel confident about raising a concern about care or safeguarding issues?



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Do you need the consent of the patient or the family to raise a safeguarding alert?



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Safeguarding Referral and Consent

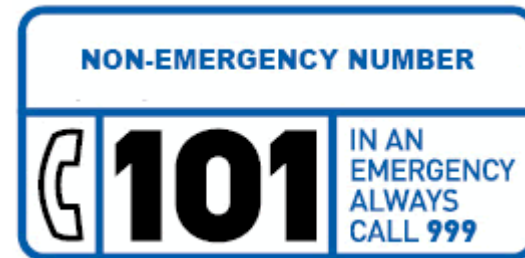
Safeguarding concerns should be made with the consent of the adult at risk – in keeping with the first principle of safeguarding

There are **four potential exceptions** to this general rule:

1. If other people appear to be at risk of harm (adults or children), in order to prevent a crime (including hate crime) or to protect others. (Crime and Disorder Act 1998)
2. If there is a 'legal restriction' or an overriding public interest. (Mental Health Act 1983)
3. If the person is exposed to life threatening risk and they are unreasonably withholding their consent.
4. If the person has impaired capacity or decision making in relation to the safeguarding issues, the safeguarding can be completed under the Mental Capacity Act 2005 best interest pathway

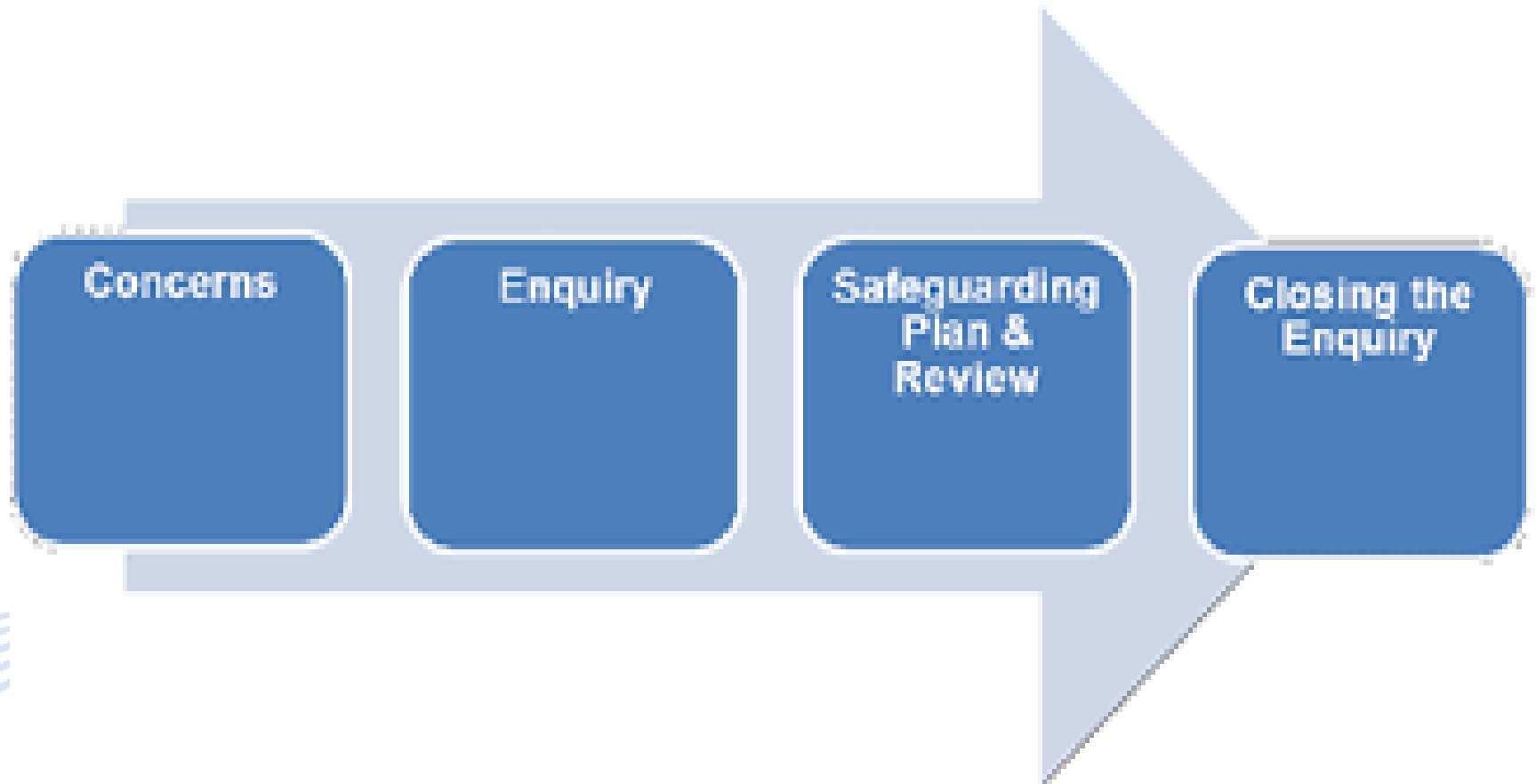
Protection plan and Immediate action

- **Emergency Police or medical support – 999**
- **Non-urgent crime or Police support – 101 or online**
- **Non urgent medical advice - 111**



**What happens when
we refer to social
services?**

What happens when we refer to social services?



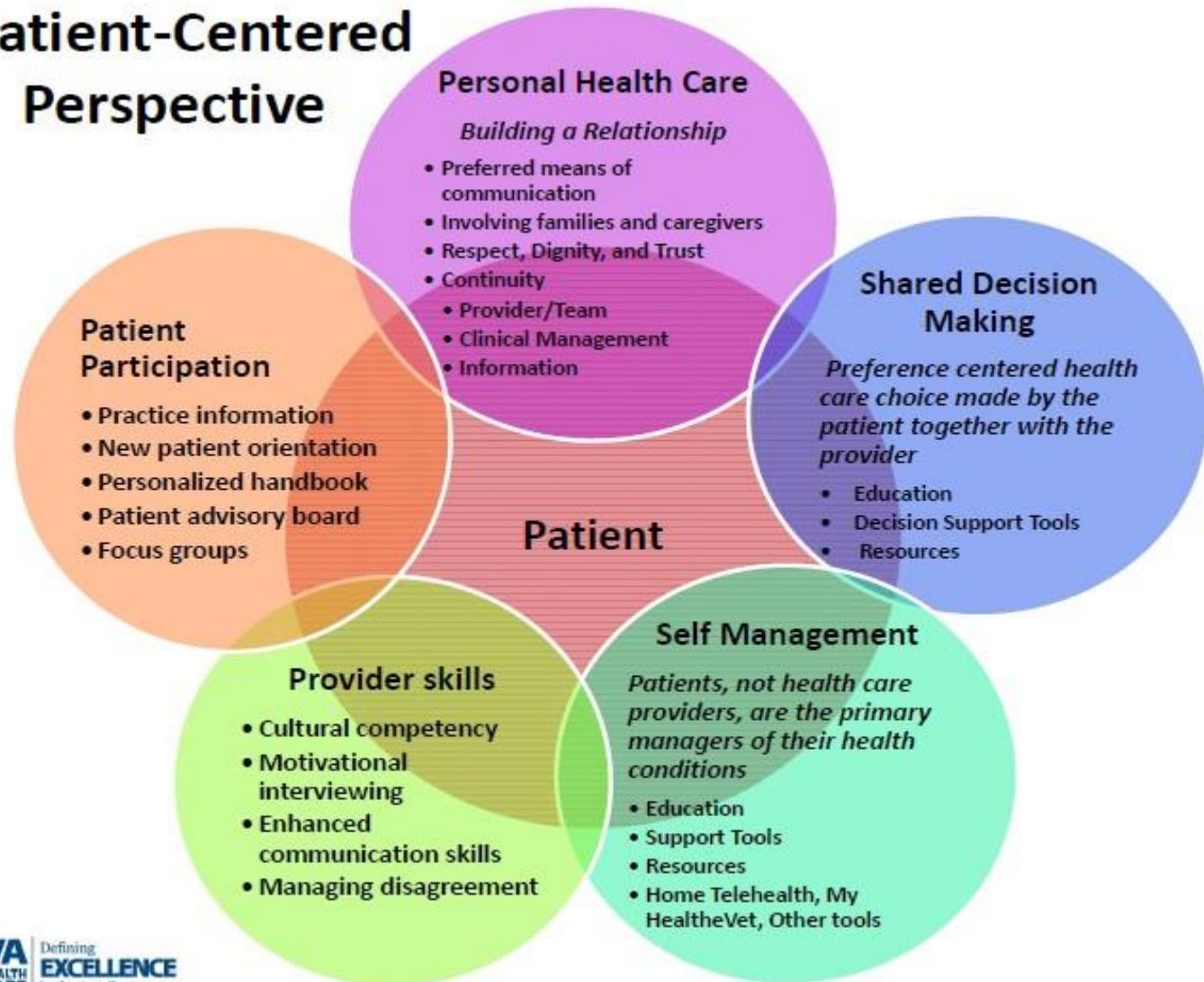
Best Practice in Safeguarding

- Multi Agency (MARAC and CMARAP)
- Making Safeguarding Personal
- Think Whole Family



MSP vs Patient Centred Care

Patient-Centered Perspective



How to achieve MSP



Information Sharing and Safeguarding

- General Data Protection Regulation (GDPR) compliant,
- Consent when you can, unless it is unsafe or inappropriate to do so.
- Necessary, proportionate, relevant, adequate, accurate, timely and secure
- Keep a record of your decision and the reasons for it
- If in doubt seek advice.



Prevent Statutory Duty



Prevent Duty Guidance: for England and Wales

Guidance for specified authorities in England and Wales on the duty in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.

Section 26 of the Counter-Terrorism and Security Act 2015 places a legal duty on certain bodies, in the exercise of their functions, to have “due regard to the need to prevent people from being drawn into terrorism”.

The specified authorities in Schedule 6 to the Act are those judged to have a role in protecting vulnerable people and/or our national security and includes NHS Trusts and Foundation Trusts.

Prevent is part of the government CONTEST strategy

METRO

NEWS... BUT NOT AS YOU KNOW IT

HOME

NEWS

SPORT

ENTERTAINMENT

LIFESTYLE

VIDEO

MORE ☰

UK

WORLD

WEIRD

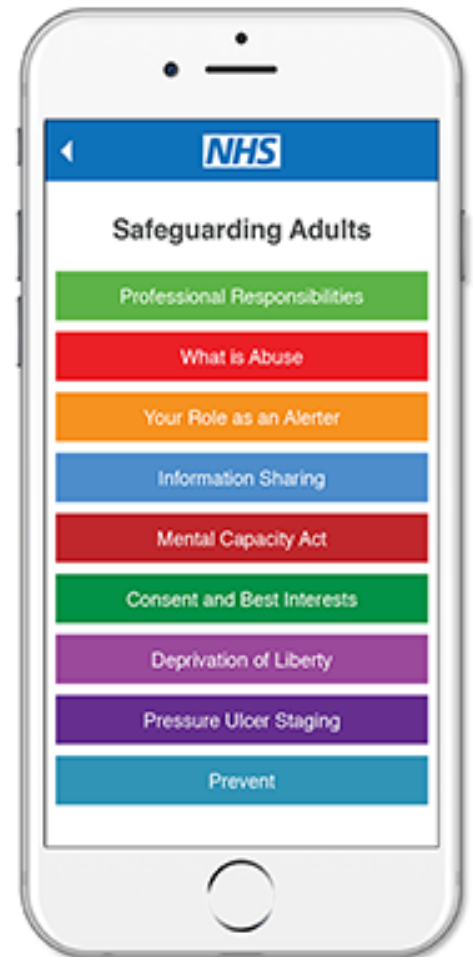
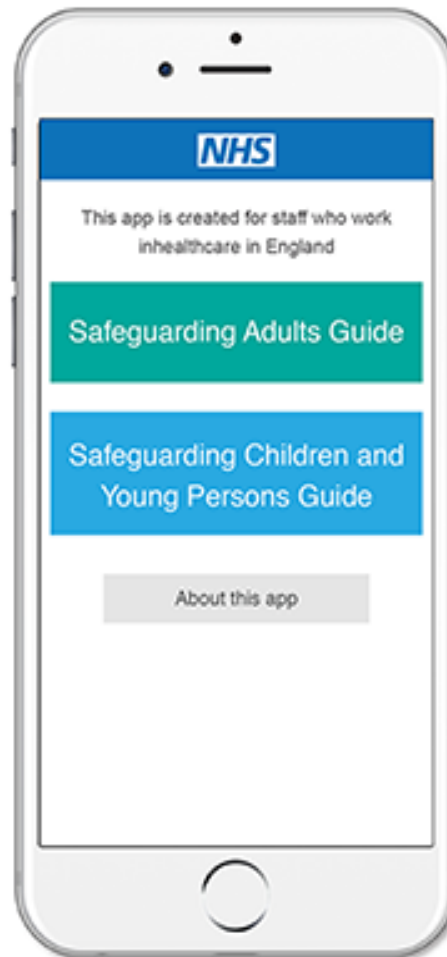
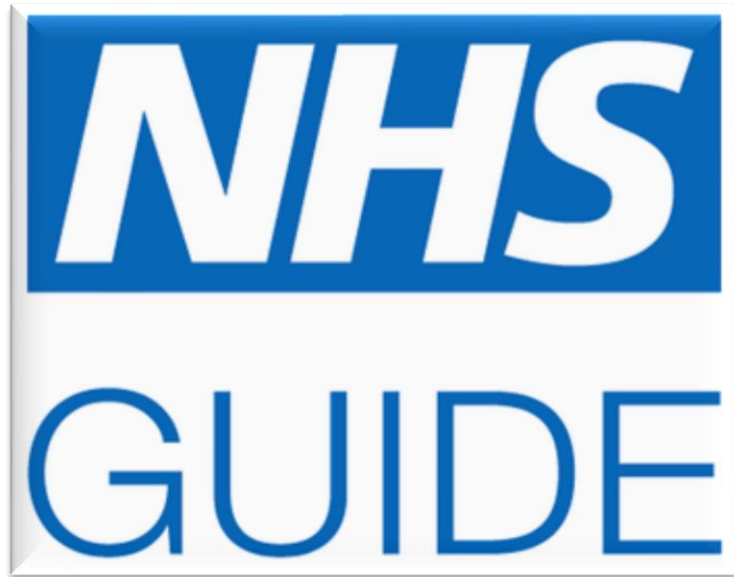
TECH

Parsons Green terror attack: Police confirm home-made bomb was terrorism related



Richard Hartley-Parkinson for Metro.co.uk Friday 15 Sep 2017 8:30 am

NHS Safeguarding Guide App



Contact us

Safeguarding Adults Team Email:
CLCHT.Adultsafeguarding@nhs.net

Single Point of Contact

9 am -5 pm

02081024218