



London Borough  
of Hounslow

# Putting People First in Hounslow

## **Best Practice in Positive Risk Taking**





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# 1. Introduction

- 1.1 Changes in disability, social care and health policy now mean that disabled adults and older people are being actively encouraged to increase their independence, for example by managing their own support, travelling independently, and being fully involved in mainstream society through education, work and leisure. For disabled people, moves away from a medical model to a social model of disability puts even greater emphasis on the discrimination and exclusion created by social and cultural barriers. This contrasts with a prior emphasis on the 'problems' resulting from peoples' impaired bodies or minds or learning ability.
- 1.2 For some services, approaches to risk have been concerned with avoiding potentially harmful situations to adults who use services, staff, family members and the community. To support people to have greater choice and control of their lives, to travel independently or take part in everyday activities means accepting there are risks that cannot be avoided but can be minimised and prepared for. This policy is concerned with the issues of positive risk-taking within Hounslow's Putting People First agenda in delivering Increased Choice and Control to all users of Social Care Services. Staff in Community Services are required to adopt a positive approach to risk taking when they work with disabled adults and older people.
- 1.3 When implementing this policy in day-to-day practice, Hounslow Council recognises that any positive risk-taking approach must be balanced with its responsibilities to ensure vulnerable adults are protected under Safeguarding Adults Policy and procedures, care standards and health and safety legislation.
- 1.4 The Council's Community Services will also endeavour through commissioning arrangements and Service Level Agreements to encourage the individuals, agencies and services it funds or contracts with to adopt a positive risk-taking approach.

## 2. Regulatory and National Policy context

'Our Health, Our Care, Our Say', and the Green Paper 'Independence, well-Being and Choice' set the agenda for people having more control over their life and able to make real choices

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4127453](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4127453)

'Putting People First' presents a shared vision and commitment to transforming Adult Social Care and makes risk management a dynamic and empowering process with a focus on personalised support.

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_081118](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118)

Better Regulation Commission's report 'Risk, Responsibility and Regulation, whose risk is it anyway?' acknowledges the need for a new definition of society's approach to risk management.

[http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/risk\\_res\\_req.pdf](http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/risk_res_req.pdf)

'No Secrets' provides a framework for a multi-agency response to safeguarding issues. There is an updated consultation paper also on the DH website;

[http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_089098](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_089098)

The Mental Capacity Act 2005 outlines some guiding principles relating to mental capacity - in particular, that capacity should be assumed unless proven otherwise through assessment. There is an obligation to take all practical steps to help the person to make decisions. It sets out the best practice in determining capacity

[www.dca.gov.uk/legal-policy/mental-capacity/mca-summary.pdf](http://www.dca.gov.uk/legal-policy/mental-capacity/mca-summary.pdf)

## 3. Other relevant policies

3.1 This policy should be used in conjunction with the following policy local frameworks;

- Multi-Agency Safeguarding Adults Policy
- MAPPA (Multi-Agency Public Protection Arrangements)
- Care Programme Approach
- Lone Working
- Self Directed Support Framework
- Fair Access to Care Eligibility Criteria

## 4. Aim and Scope

The effective identification, assessment and management of risk and review of incidents can be supported through policy, procedures and practical tools that can be used by practitioners.

- Processes must be established to identify and assess risk and evaluate measures that can reduce the chances of an event taking place.
- Training must be provided for staff and managers.
- Risk assessments should be carried out and regularly updated by competent staff for all identified risks.
- Assessment should involve a level of management that is appropriate to the nature and scale of the risk.
- Decisions should be clearly documented and the resulting actions implemented through prescribed local procedures.
- Clear reporting procedures must be established for each service where the identification of risk and risk management actions are recorded.
- Services must ensure that appropriate, cost effective actions are taken to manage and control risks.
- Elected Members should be informed of Positive Risk Taking responsibilities.

## 5. What is Risk?

5.1. Risk is the probability that an event will occur with beneficial or harmful outcomes for a particular person or others with whom they come into contact.

An event can occur because of:

- risks associated with impairment or disability such as falls
- accidents, for example; whilst out in the community or at a social care service
- risks associated with everyday activities that might be increased by a person's impairment or disability
- the use of medication
- the misuse of drugs or alcohol
- behaviours resulting in injury, neglect, abuse, and exploitation by self or others
- suicide or self-harm
- aggression and violence

5.2. The type of event depends on the nature of the person, their relationships with others and the circumstances they find themselves in.

5.3. Risk is often thought of in terms of danger, loss, threat, damage or injury. As well as potentially negative characteristics, risk-taking can have positive benefits for individuals and their communities.

5.4. The difference for many disabled adults and older people when they take risks is that they will do so when being supported by Personal Assistants or a Support Worker from a statutory service or an independent agency. Also, there will be times when a disabled or older person might take risks on their own, but a statutory service might be held responsible if harm to them or others occurs.

5.5. A balance therefore has to be achieved between the desire of disabled adults and older people to do everyday activities, the duty of care owed by services and employers to their workers, the duty of care owed to users of services, and the legal duties of statutory and community services and independent providers. As well as considering the dangers associated with risk, the potential benefits of risk-taking have to be identified ('nothing ventured, nothing gained'). This should involve everyone affected – adults who use services, their families/carers and practitioners.

## 6. What is positive risk taking?

- 6.1. 'Positive risk-taking' is: weighing up the potential benefits and harms of exercising one choice of action over another. Identifying the potential risks involved, and developing plans and actions that reflect the positive potentials and stated priorities of the resident. It involves using available resources and support to achieve the desired outcomes, and to minimise the potential harmful outcomes. It is not negligent ignorance of the potential risks...it is usually a very carefully thought out strategy for managing a specific situation or set of circumstances.' (Steve Morgan, 2004)
- 6.2. For community based services, this means:
- being empowering
  - working in partnership with adults who use services, family carers and advocates
  - understanding the tensions that can occur between carers and residents over risk taking
  - developing an understanding of the responsibilities of each party
  - helping people to access opportunities and take worthwhile chances
  - developing trusting working relationships
  - helping adults who use services to learn from their experiences such as actions that may improve quality of life but could have detrimental effect on an individual's health
  - understanding the consequences of different actions
  - making decisions based on all the choices available and accurate information
  - being positive about potential risks
  - understanding a person's strengths
  - knowing what has worked or not in the past
  - where problems have arisen, understanding why
  - ensuring support and advocacy is available to disabled adults and older people, particularly if things begin to go wrong for someone
  - sometimes tolerating short-term risks for long-term gains
  - through regular reviews gradually withdrawing inappropriate services that create dependency
  - having an understanding of the different perspectives of disabled adults and older people, family carers, practitioners, advocates and services
  - developing person-centred and transition planning for both young people and adults to support their involvement and that of their families and schools in decision-making alongside practitioners
  - ensuring staff use the guidance, procedures and risk assessment / management tools adopted by their service, and receive appropriate support and supervision from their immediate line manager.

## **7. Best Practice Principles underpinning risk assessment and risk management**

- 7.1. A commitment to ensuring that all residents and carers enjoy the same rights of citizenship as everyone else in the community.
- 7.2. People have equal access to assessment and service provision irrespective of age, gender, race, disability or sexual orientation.
- 7.3. Respect for the independence of individuals and their right to self-determination and to take risks.
- 7.4. Helping people understand their responsibilities and the implications of their choices including any risk.
- 7.5. Respect for privacy and the least intrusive intervention to achieve a positive outcome.
- 7.6. Person centred planning which puts individuals and their carers at the centre of the assessment and care planning process.
- 7.7. Normalisation – respecting the individual's right to lead a normal and valued life, to participate fully in society and to make choices.
- 7.8. Empowerment – enabling individuals to maximise their own abilities and potential, and give recognition for what they can do rather than what they cannot and to take worthwhile chances.
- 7.9. Considering when the need for safeguarding may override the decision to promote choice and empowerment and implementing the Safeguarding Adults Policy procedures if necessary.
- 7.10. Transparency and accountability – keeping accurate and clear records and appropriately sharing this information within the realms of confidentiality. Defensible decisions are those based on clear reasoning and accurate recording.
- 7.11. Continuing existing arrangements for safeguarding adults and ensuring that the right balance is struck between enabling people and preventing unnecessary harm to themselves or others.
- 7.12. Respecting and taking into account carers needs and wishes and supporting the rights of all involved where there is conflict.
- 7.13. Having a shared/common approach to risk assessment and risk management and promoting inter agency agreements and good commissioning practices.

## **8. When to assess**

- 8.1. Anybody who appears to be in need of social care services is entitled to an assessment. The purpose of a supported or Resident-Led Assessment is to identify needs. This forms the basis for determining eligibility for services. The process of assessing needs may identify risks. The carers' policy also requires that their needs and associated risks are assessed and identified.
- 8.2. Even where an individual is deemed to be 'self-funding' at an early stage in the process, they are still entitled to support and advice with regard to support planning and in the setting up of services if they wish following that assessment. They are similarly entitled to help and advice in determining how any identified risks will be managed and to access the Safeguarding Policy and Procedures. In certain circumstances the council may commission services for someone funding their own care even where they pay full cost.

## **9. Carrying out a risk assessment and developing the Support Plan.**

- 9.1. In respect of any immediate risks identified, an assessment should be carried out by the Care Manager who has overall responsibility for validating the Resident Led Assessment, and is responsible for the completion of the overview assessment.
- 9.2. The Assessor should co-ordinate the risk assessment process and this may involve calling in specialist assessments (e.g. OT) as necessary.
- 9.3. Service providers with expertise in risk assessment should also be involved if necessary but should not be carrying out independent or substitute risk assessments on their own without reference to the Assessor.

## **10. When other issues are identified.**

### **10.1. Mental Capacity**

Where it appears that someone lacks capacity to make a decision, reference should be made to the Mental Capacity Code of Practice and the five statutory principles in the Mental Capacity Act:

1. A person must be assumed to have capacity unless it is established that he lacks capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

A decision must be made in the person's best interests taking into account all the factors in the best interest checklist, for example, a person's best interests must not be judged simply on the basis of their age, appearance, condition or behaviour. In some cases it may also be necessary to instruct an Independent Mental Capacity Advocate (IMCA).

It is important to remember that mental capacity is issue-specific, so an individual may lack capacity in some matters but not others.

### **10.2. Abuse**

There is a delicate balance between empowerment and safeguarding, choice and risk. Therefore practitioners will need to decide when the need for protection overrides the decision to promote independence and choice. Sometimes additional safeguards can be provided for people choosing to direct their own support, e.g. CRB checks for Personal Assistants they recruit or extra brokerage support to monitor the quality of services.

Where an individual's choice may put them at risk of abuse, neglect or exploitation by another person or person the situation should be discussed with them, and if they wish, action may be taken under the Safeguarding Adults Policy.

In situations where it is assessed that the individual's choice puts them at a severe risk of abuse then action will need to be taken under the Safeguarding Adults Policy without the adult's agreement. The Safeguarding Adults Coordinators must be contacted for advice in these situations.

A balance needs to be struck between risk and the preservation of rights. In some cases an individual may have weighed up the information and be willing to take a risk for the sake of independence.

### **10.3. Health and safety of others**

There is a legal duty placed on employers to ensure the health and safety at work of all their employees. This includes residents employing Personal Assistants or Support Workers using a Direct Payment. The support planning process should identify and address any concerns of this type.

A resident who experiences mental health problems may present challenges in relation to the health and safety of support staff. Fluctuation of peoples' needs may add complexity to an individual's circumstances. In these instances it is crucial that risk agreements monitored frequently and the user and any carers are closely engaged in the process. In some cases the Care Programme Approach will be in place and that policy framework overrides this one.

### **10.4. Financial risk to the Council**

There may be instances when the Support Plan is more costly than the Council can afford or where the way in which the individual wishes to be supported in order to meet their needs and achieve outcomes is considered to put the individual at an unacceptable level of risk or be an entirely inappropriate use of funding. These matters should be referred through the validation process as outlined below.

### **10.5. Carers**

Appropriate support for family or unpaid carers is vital to vulnerable people being enabled to live in the community, but tensions can arise in relation to their own interests and those of the individual for whom they provide care. One person's needs however should not be seen as more important than another's and each person's wishes should be considered and acknowledged.

Ideally a resolution should be reached by negotiation in the case of any disagreement. In some cases an independent mediator may help. Carers' and users' assessments can be supported by different members of staff in order to avoid any conflict of interests arising.

Family carers need to feel confident that the support and care being offered is consistent and of sufficient quality to minimise risks and keep the person as safe as possible and not result in the carer having to increase their contribution.

### **10.6. Risk and the law**

The law is concerned with concepts of negligence, abuse and foreseeable significant harm and acts or omissions of the Council and/or providers.

Taking risks can expose the Council, the NHS, and/or independent providers of care and support services to the risk of compensation claims should things go wrong. All organisations involved in care provision have a Duty of Care to individuals, users and staff. Negligent acts or omissions that lead to harm to an individual can result in successful legal action against the organisation being brought.

The Council has in place insurance to cover it against claims and all care providers, including private employers have a responsibility to hold liability insurance to cover claims from the employee. (e.g. a resident in receipt of a Direct Payment/Individual Budget) should have appropriate levels of insurance in place.

An individual who has capacity and makes a decision to live with risk having weighed up the relevant information and been made aware of the consequences, is entitled to do so and is considered to have consented to the risk. It follows that so long as an assessment is carried out properly, risks are identified and decisions are made with the individual and properly shared and recorded, any legal action is unlikely to succeed. Care must be taken to ensure that a person is being allowed to take informed risks as opposed to being put in a position of risk by the Council or its providers. .

In order to secure the balance of risk and empowerment and respond to any legal challenge of this nature, those involved in the process of assessing and supporting risk taking must be able to show that they have;

- Acted reasonably
- Acted in an informed way
- Acted responsibly in relation to their duty of care and were not negligent
- Assessed and taken steps to manage and minimise the foreseeable risks
- Involved the person in the process and supported them to make informed decisions including making them aware of the potential consequences
- Involved the appropriate people (other professionals, advocate, family etc)
- Followed relevant policies and procedures properly

### **10.7. Serious incidents and managing the media**

The Council has clear guidelines for media contact should a serious incident occur. It may be possible to pre-empt a negative report by releasing an early statement. Any such incident where an individual receiving or providing a service has suffered significant harm must be immediately reported to a line manager who will follow the critical incident policy.

## 11. Risk Management

- 11.1. Risk Management is what happens after some risks (positive and negative) have been identified. This is the joint responsibility of all those involved in supporting the individual.
- 11.2. The best place for a risk management plan is within the Support Plan – this includes the responsibilities of all of those involved, including the resident, informal care, paid care, professionals involved etc. This should be signed, circulated and monitored by all concerned.
- 11.3. The Support Plan should inform all those involved in providing support exactly how risks in a resident's day to day life will be managed and what to do if things go wrong. Positive risk management needs to be underpinned by contingency planning which may help prevent some harmful outcomes and minimise others. This can include some specific boundaries, for example, if someone's behaviour becomes reckless, dangerous or illegal.
- 11.4. Reviews are also a crucial part of risk management, particularly if a person's needs are likely to fluctuate. At this point any decisions or Support Plans can be evaluated and changed if required. In situations where a high level of risk is identified it may help to work to shorter time scales and more regular reviews. The effects of risks can therefore be more closely monitored and intervention in a more restrictive way can take place if required.

## 12. Support Plans and Personal Budgets

The Council may place reasonable conditions on any Support Plan to protect and safeguard an individual with an identified vulnerability. Any conditions should be proportionate to the risk identified and must not defeat the principle of the Putting People First

- 12.1. The Resident should be provided with the name of the relevant person or team to contact and information about the safeguarding procedures, should any problems arise. The emergency duty contact number should also be provided if there are particular concerns.
- 12.2. The Support Plan should state any risks identified and how the resident will manage them and what support they need to stay safe and well.
- 12.3. Financial risk may be high on the agenda for some people directing their own support. There are options available to minimise risk;
  - a) A virtual budget where the Council manages the account on behalf of the service user
  - b) A user controlled Trust where appointees can jointly act on behalf of the resident
  - c) An individual service fund where one organisation provides support including management of the account

Reasonable conditions can be used to make sure that the Direct Payment or Personal Budget is managed safely.

## 13. Validating Support Plans

### See Appendix A

13.1. The purpose of the validation process is;

- To agree the Support Plan
- To confirm the amount of the Personal Budget
- Validate any mitigating actions agreed in relation to potential risks identified

13.2. The four criteria for funding a Support Plan to go ahead is that it is:

- **Affordable**
- **Effective**
- **Safeguarded**
- **Lawful**

13.3. A Support Plan will not be signed off if

- The cost of the Personal Budget is above the level that can be agreed or presents a major financial risk to the council (**Affordable**)
- The risks identified are too great or the mitigating actions are unlikely to address the risks (**Effective**)
- The manager is concerned that agreeing the Support Plan leaves the resident at a high and unacceptable level of risk. (**Safeguarded**)
- The Support Plan does not take into account any laws or regulations that may apply to what the person wants to do. (**Lawful**)

### 13.4. Step 1

Where changes need to be made in any of the areas, e.g. risks have no mitigating actions identified, the Support Plan will be returned to the resident and their support planner in the first instance for further consideration. Suggestions may be made as to how the support plan may be changed in order to address the concerns.

The revised Support Plan may then be passed back to the appropriate manager for validation. If resolution has not been achieved then it will be passed to the Service Manager

### 13.5. Step 2

In some cases where risk issues may be less critical, validation may still take place involving the Head of Service, Team Manager and Support Planner meeting, face to face or virtually. If resolved, the Support Plan will be signed off and confirmed with the resident.

### **13.6. Step 3**

If the issues are major and cannot be resolved in this way the matter will be referred to the Positive Risk Panel. In the intervening period whilst the panel is being convened an interim Support Plan will be put in place where necessary.

## 14. The Positive Risk Panel

### Positive Risk Panel Guidance

This guide has been produced to help all staff within Community Services, Safeguarding Adults Board and Partner agencies to understand the purpose and process of the Positive Risk Panel.

A multi disciplinary case conference should take place with all relevant agencies prior to applying to the Positive Risk Panel. Any agency involved can call for and lead the case conference.

### The purpose of the Positive Risk Panel

The purpose of the panel is to provide a forum where staff at different levels can seek high level approval, decision making and support when the level of risk raises such a concern that advice above the Service Manager needs to be sought. This could be:

- Where a support plan will not meet identified risks.
- Where risks have been identified in giving an individual a personal budget to manage themselves including safeguarding concerns.
- Where an individual is putting themselves or others at significant risk by refusing services.
- All options have been explored and the level of risk is still high.
- Disagreement between staff and manager / team colleagues on managing the level of risk.

Anyone can present a case to the Positive Risk Panel where there is a complex or challenging risk issue and where guidance and decision making are needed.

The person does not have to be in receipt of social services support, the reason for the presentation to panel might be due to the individual refusing support.

The purpose of the panel is to support the individual and staff to reach agreement and adopting strategies around risk decision and the management of those risks where they are manageable.

## **What support the panel will give**

- Support, guidance and direction to staff in the management of complex cases, including conflict resolution.
- Agreement in the risk decision making and flexible and creative use of resources to respond to complex needs.
- A consistent approach to managing complex risk decision making, where risk to independence is balanced with the risk of not supporting choice.
- Demonstrate that the Local Authority has appropriately fulfilled its duty of care.

The panel is there to support and validate recommendations on what would be reasonable in terms of managing the risks which can be managed, while balancing the rights of all concerned.

If the risk is so significant, the panel retains the right to refuse the plan and oversee the meeting of identified needs in a way determined by the Local Authority.

## **Membership of the panel**

Membership for the panel will vary to reflect the expertise and knowledge required when reviewing cases from different client groups.

The Positive Risk Panel will consist of a core membership of:

- Chair (Assistant Director)
- Representative from relevant Safeguarding Adults Partnership Board
- Safeguarding Adults team member
- Relevant case worker
- Person themselves (where appropriate)
- Other relevant agencies (as appropriate)

## **Individuals, family members and representatives**

Individuals, their family members and representatives should be supported to be a part of the assessment process, and given the opportunity to contribute their views to the panel, where appropriate. If they do not attend, the case worker should ensure that their views are included in the presentation of the case.

Family members and representatives (where appropriate) should be given the opportunity to attend the panel.

If there are disagreements between residents / family members and/ or staff members, please give details when submitting Form A.

## **Process of the panel (see Appendix D)**

- To apply for the Panel, Form A needs to be submitted to the panel administrator, Michelle Cooper. Forms can be sent by secure email to [Michelle.Cooper-GCSX@hounslow.gcsx.gov.uk](mailto:Michelle.Cooper-GCSX@hounslow.gcsx.gov.uk) or by using the Hounslow network to [Michelle.Cooper@hounslow.gov.uk](mailto:Michelle.Cooper@hounslow.gov.uk), or through partner agencies using secure email addresses.
- If appropriate that the resident and/ or carer/ family member/ representative are attending the panel then the relevant case worker needs to invite them.
- Presenting worker needs to advise the panel administrator of persons that are attending and any particular requirements i.e. access/ language/ time
- Panel administrator will complete Form B and any additional minutes or notes and send to the presenting worker and chair.
- Once Form B has been agreed the administrator will send it to all attendees.

## **Review**

All cases will be required to be represented to the panel in order to review the outcomes. The timescale for this should be set at the panel and specified on Form B.

## Appendix A

### London Borough of Hounslow Guidance for Agreeing a Support Plan

#### 1. Key Principles

- 1.2 When a person is entitled under Fair Access to Services Criteria to social care assistance from the council, a Personal Budget will be calculated for that purpose.
- 1.2 The Personal Budget can be used in the way the person thinks will best meet their need for 'social care'.
- 1.3 A **Support Plan** will set out how they want to deal with difficulties the assessment has identified, which includes saying how they want to use the money.
- 1.4 The customer can draw up their own proposed support plan or, if they wish, use the assistance of people from the council like Social Workers or Care Managers, or take advice and guidance from other sources such as Independent Brokers.
- 1.5 Guidance applies to new and existing Support Plans, therefore guidance should be considered as a tool to support the review process.

#### 2. What a Support Plan should include

- 2.1 The plan should record what the person has identified as the things that would make a difference in their life – the outcomes.
- 2.2 Set out the practical things that need to be done to reach those outcomes.
- 2.3 Describe the changes or improvements that could deal with the person's difficulties, or describe what they need to stay healthy and happy.
- 2.4 Record whether the person wants to arrange their own assistance, or have the Council or someone else do so for them.
- 2.5 How much money there is, (*including the amount the council has allocated to the budget, and whether it includes money from other funding sources and the individual's assessed contribution,*) and how they want it used.
- 2.6 Say who will manage the money
- 2.7 Say who is working with the resident on writing this plan

- 2.8 Keeping healthy and safe - the plan should include what will help the person to look after their health and welfare. Should not be over-cautious, but to make sure the plan covers risks that they think may occur
- 2.9 Using expert advice - Some plans will depend on specialist knowledge to get them right. For example, Occupational Therapists know about equipment and adaptations to property. Social Care Workers will know how to access effective services from provider organisations. Direct Payments advisers know about budgeting, and about recruiting and employing personal assistants. If the plan includes such technical elements it should say where the person will get the expert advice they need, both to make the plan and to carry it out safely and legally.
- 2.10 Emergencies, disruptions, and unforeseen events. This could include saying who could help deal with problems, or how much of the budget might be kept in reserve for emergencies

### 3. Agreeing the Plan

- 3.1 Social Workers/Care Managers will be required to make a judgement about whether a person's plan for using their Personal Budget will work. The four criteria for the funding for a support plan to go ahead are that it is **LAWFUL, EFFECTIVE, SAFEGUARDED and AFFORDABLE**.
- 3.2 This guidance offers a checklist of questions that a Social Worker/Care Manager should ask in reaching that judgement.
- 3.3 If the Worker is satisfied that these three criteria are met, they can recommend to their manager that the money allocated to the person's Personal Budget can begin to be used.  
If not, the manager may decline to release the money until a plan has been drawn up that is agreed as workable.
- 3.4 Failure to comply with any of the three criteria, will require line manager review and adjustment.

Line Manager recommendations must be communicated to the person and recorded on the person's case file.

Where a Support Plan identifies any risks, clear management strategies must be outlined in the plan. Failure to do this will result in the plan not being approved.

#### **4. Is it Lawful?**

- 4.1 Does the Support Plan take into account any laws or regulations that may apply to what the person wants to do?
- 4.2 If the plan involves purchasing services, do the providers meet the relevant regulatory requirements where applicable (e.g. CSCI registration)?
- 4.3 If the plan involves engaging PAs, has the worker checked that the person has taken competent advice from an accredited source (e.g. the SDS Team) about employment, insurance, and tax matters?
- 4.4 Where the plan involves using assistive technology, does it cover the need for health and safety training and/or obligatory insurances?
- 4.5 Does the plan provide safeguards in situations where the person, or someone else, might be at predictable risk of harm or disadvantage?

#### **5. Is the Support Plan effective?**

- 5.1 Do the proposals relate to the outcomes that were agreed when the assessment was carried out?
- 5.2 If implemented successfully, will the plan genuinely support the person's independence and well-being?
- 5.3 If implementation depends on certain people, resources, or facilities, are they available?
- 5.4 Is the plan reasonably robust? That is, is it free of risks that are serious enough to make it fail or jeopardise anyone's safety?
- 5.5 Is the plan 'over-cautious'? That is, does it try to avoid risks to the extent that it limits the person's quality of life?
- 5.6 Where there is a failure to clearly record how identified risks are going to be managed has a Line Manager Review occurred or a referral to the Positive Risk Panel. *(Referral to the Positive Risk Panel will be triggered if risks cannot be managed or where there is a failure to agree how risks are going to be effectively managed. (See guidance for Positive Risk Panel)*
- 5.7 If the plan includes using complex equipment, has Trusted Assessor or OT advice been provided?
- 5.8 Does the plan include steps to deal with problems or interruptions?

## 6. Is it Safeguarded?

- 6.1 Does the plan expose the adult to serious level of risk of abuse
- 6.2 Is the adult isolated from people who can help to report increasing risk and abuse? In these situations more priority needs to be given to risk and to safeguarding against abuse.

## 7. Is the Support Plan affordable?

- 7.1 Are all parties clear about the amount of money that can be devoted to the plan?
- 7.2 Does it show that the cost of carrying it out can be met from the money that is available?
- 7.3 If there is more than one funding stream in the budget, have the amounts been specified?
- 7.4 If implementation depends on personal or family money as well as the Personal Budget funding, is it available and secure?
- 7.5 Are all reasonable costs predictable and identified, or could there be surprises?
- 7.6 Will the available money realistically cover the predicted costs?
- 7.7 If some costs are not predictable, has money been allocated for contingencies or kept by as a reserve?
- 7.8 If the person plans to employ PAs, have they taken budgeting advice from the SDS Team about employment costs?
- 7.9 If the person plans to engage service providers such as agencies, have they accounted for enhanced costs (like unsocial hours and bank holidays)?

## 8. Quality considerations

- 8.1 Meeting the four essential criteria (Lawful, Effective, Safeguarded and Affordable) is the *basic* requirement for a plan to go ahead. They could be addressed by using familiar, conventional 'care' services, if that's what the person wants to do. However, good practice in the spirit of self-directed support would be to encourage people to think as widely and creatively as possible about ways of using the money. This suggests some other questions that the Social Worker/Care Manager should consider.

- 8.2 Does the plan make use of amenities in the community that are available to everybody, as distinct from services aimed specifically at disabled or older people, i.e. mainstream services?
- 8.3 Does the person genuinely feel that they have the go-ahead to make their own decisions about using the Personal Budget, or do they feel it must be spent on things prescribed by the council, or by someone else?
- 8.4 Has the person been able to seek reliable information and advice from a variety of independent sources? Could you suggest other people or services they might like to contact?
- 8.5 Would the person like to be in touch with other Personal Budget holders, to share ideas about what can be done with a Personal Budget?
- 8.6 If the person is cautious at first about being 'unconventional' in using their Personal Budget, could you arrange to revisit the plan in due course, when they might feel more confident about making changes?
- 8.7 Do you think the person's plan promises to get the best value out of the Personal Budget? Could you, or someone else, help them budget in a way that would increase their flexibility or spending power?
- 8.8 If the person initially opts for the Personal Budget to be held by the council to provide commissioned services, can you come back to them later to see if they want to take greater control over the spending?

## 9. Approval Levels

- 9.1 Failure to comply with one of the four (**Lawful, Effective, Safeguarded and Affordable**) Criteria will automatically trigger the requirement for Line/Team Manager review to approve or recommend further action.
  - 9.2 In addition where the Worker identifies that the Support Plan does not:
    - Identify the level of risk
    - Meet identified risks.
    - Meet support needs within indicative budget.
    - Address issues of mental capacity.
- Or
- Where there are current or previous issues of safeguarding.
  - Where Personal Budgets are not being managed effectively.

The worker must discuss with the Line Manager.

- 9.3 Where resolution on any of these issues is unable to be reached then referral to the Positive Risk Panel is triggered (see Positive Risk Panel Criteria)

**Form A**

**Positive Risk Panel  
London Borough of Hounslow  
Case Overview**

Name:	SWIFT No/Other No:
Address:	Date of Birth:
	Ethnicity:
Telephone number(s) Home: Mobile:	Does the resident have any issues regarding their mental capacity in respect of the issues being presented?  Yes <input type="checkbox"/> No <input type="checkbox"/>
Member of staff presenting case: Team: Date:	
Will resident/carer/ family member be attending panel? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please give details:	
Is an interpreter required? Yes <input type="checkbox"/> No <input type="checkbox"/>	
What would you like the Positive Risk Panel to consider?	
Is this an application for Self Directed Support? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Are there any identified risks or potential risks which are not addressed/managed by the Support Plan/Care Plan?  Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, give details including any differing perceptions/points of view and any attempts at resolution.	

<p>Are there issues of conflict between resident and/or family/carer and /or staff members?</p> <p>Yes <input type="checkbox"/>      No <input type="checkbox"/>      If yes please give details:</p>	
<p>Has a safeguarding alert ever been raised about this person?    Yes <input type="checkbox"/>      No <input type="checkbox"/></p> <p>If yes please give details:</p>	
<p>Date(s), Type of abuse, Outcome(s)</p>	
<p>Any other comments or information relevant to case:</p>	
<p>Supervision: Has this case been discussed in supervision - who with and date?</p>	
<p>Has risk assessment been completed    Yes <input type="checkbox"/>      No <input type="checkbox"/></p> <p>If yes, please attach to application.</p>	
<p>Signed:</p> <p>Signed:</p> <p>Team:</p> <p>Date:</p>	<p>(Staff member)</p> <p>(Manager's signature)</p>

**Please attach:**

- **Resident Led Assessment**
- **Support Plan**
- **And any other evidence of how the person has been involved in the risk decision making**



**Form B**

**Presentation at Positive Risk Panel**

Date of Panel:

Venue:

Name of Resident:

SWIFT No:

Attendees:

Panel Chair:

Was Assessment presented?

Yes

No

Was Support Plan presented?

Yes

No

Any other documentation?  
Please specify:

Yes

No

Panel Decision:

Were all parties in agreement with Panel's recommendations?

Yes

No

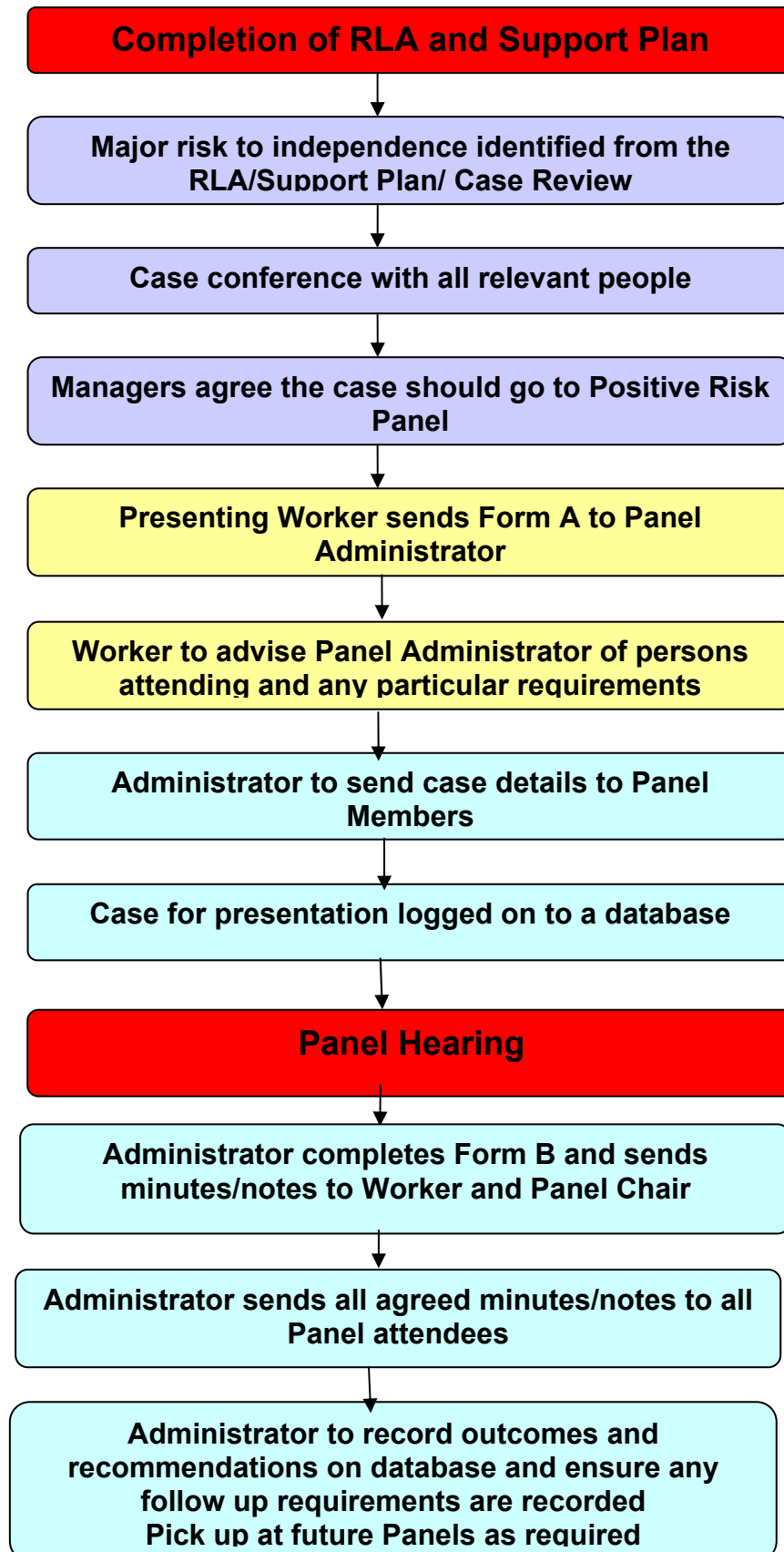
If no give details:

Any other comments:	
Follow up attendance at Positive Risk Panel required? Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, date of follow up .....	
Signed (Chair of Panel):	Date:

Acknowledgements:

- Gateshead Positive Risk Taking Policy
- Kingston Risk Policy
- Waltham Forest Risk Taking Policy

## Positive Risk Panel Process



**MG – Elaine Orme and Julia Leonard, Hounslow Homes****Summary**

MG has been in xxxxxx House since 2004. Settled in fairly well.

In 2006 she called the police as she said someone stole from her and also called the ambulance service about being ill. Social services got involved at this point. In Oct 2006 the mental health team got involved and they completed their assessments - no feedback was provided. EO has chased them on a number of occasions and still no feedback. MG puts filing cabinets behind her front door to ensure no one can get in and steal from her. In 2007 she accused a solicitor of stealing from her and had thoughts that her neighbour came out of prison. She has depression and early onset dementia. CPN was involved and MG did not engage. She was closed to xxxxxx lodge 2008. Safeguarding issue was raised on 1<sup>st</sup> April 2011. MG was in hospital and was discharged without a protection plan.

**Suggestions/Outcomes**

- Follow up safeguarding investigation. Pass to xx and copy in YY
- Mental capacity assessment to be completed and presented to SDS panel.
- IMCA to be involved, if son does not want to be involved or is not seen to be acting in resident's best interests.
- Referral to Brentford lodge.

xx to follow up and bring back to panel on 3<sup>rd</sup> October 2011.

Form B Presentation at Positive Risk Panel	
Date of Panel: <b>5/9/11</b>	Venue: <b>Civic Centre</b>
Name of Resident: <b>MG</b>	SWIFT No:
Attendees: <b>Elleke Carling, Jo Powley (for Alison Simmons), Elaine Orme, Bernadette O'Shea, Patric Hemsworth (for Martin Elliott), Vishal Davit, Martin Reynolds (for Sharon Brookes), Charlotte Fitzgerald.</b>	
Panel Chair: <b>Charlotte Fitzgerald</b>	
Was Assessment presented?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was Support Plan presented?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Any other documentation? Please specify:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li><b>Overview given.</b></li> </ul>	
Panel Decision:	
<ul style="list-style-type: none"> <li><b>Follow up on Safeguarding Investigation outcome.</b></li> <li><b>MCA.</b></li> <li><b>Care Management leadership needed. Case needs to be presented at the Older People Panel.</b></li> <li><b>Is son willing to engage? Best Interests?</b></li> <li><b>Care Management referral to Brentford Lodge.</b></li> </ul>	
Were all parties in agreement with Panel's recommendations?	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If no give details:	

Any other comments:

**Urgency impressed, Patric Hemsworth to follow up on 6/9/11.**

Follow up attendance at Positive Risk Panel required? Yes  No

If yes, date of follow up - **3<sup>rd</sup> October 2011.**

Signed (Chair of Panel):

Date: 5/9/2011

*Charlotte Fitzgerald.*

Acknowledgements:

Gateshead Positive Risk Taking Policy  
Kingston Risk Policy  
Waltham Forest Risk Taking Policy

**DM – Anne Pelote, Marianne Oommen and R Singh**

**Summary**

Came through SDS panel. DM is elderly and lives in her own property. She had a fall and she is unable to mobilise, neighbour found her after she fell. Refuses care. Mental health assessment completed – DM is able to make and understand own choices/decisions. Very reluctant to pay for shopping or repairs around the house. Owns 2 properties. Her son brought builders around to complete building works, however DM sent the builders away. Husband passed away within the past year. Son lives in Wales, neighbour does shopping for her and she may see him as a surrogate son as there is clearly trust and some dependency there.

**Suggestions/Outcomes**

- Possible change of support worker, maybe male worker of younger age
- Private sector housing referral to be discussed with resident and undertaken.
- Carer to do more shopping on a frequent basis, rather than weekly.

Form B Presentation at Positive Risk Panel	
Date of Panel: <b>5/9/11</b>	Venue: <b>Civic Centre</b>
Name of Resident: <b>DM</b>	SWIFT No: <b>x</b>
Attendees: <b>Elleke Carling, Jo Powley (for Alison Simmons), Marianne Oommen, Anna Pelote, Bernadette O'Shea, Patric Hemsworth (for Martin Elliott), Vishal Davit, Martin Reynolds (for Sharon Brookes), Charlotte Fitzgerald.</b>	
Panel Chair: <b>Charlotte Fitzgerald</b>	
Was Assessment presented?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Was Support Plan presented?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Housing Support Provider.</b>	
Any other documentation? Please specify:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Positive Risk Panel Form.</b>	
Panel Decision:	
<ul style="list-style-type: none"> <li>• <b>Private Sector Housing referral to be made.</b></li> <li>• <b>Clearly has mental capacity.</b></li> <li>• <b>Maintain current level of carer engagement.</b></li> <li>• <b>Carer to shop more frequently.</b></li> <li>• <b>Explore possibility of changing support worker for reasons discussed.</b></li> </ul>	
Were all parties in agreement with Panel's recommendations?	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If no give details:	

Any other comments:	
Follow up attendance at Positive Risk Panel required? Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, date of follow up .....	
Signed (Chair of Panel): <i>Charlotte Fitzgerald.</i>	Date: 5/9/2011

Acknowledgements:

Gateshead Positive Risk Taking Policy  
 Kingston Risk Policy  
 Waltham Forest Risk Taking Policy

**CI – Hannah Gaunt CMHT****Summary**

CI is a risk to self and her condition has been deteriorating over the past 2 years. She has personality disorder and bi-polar. CI does not engage with anyone. The mental health team have explored all avenues. CI is a risk to self as she will try to take her own life, she self neglects and is unkempt. Her mood fluctuates. She has been pregnant before and slept with men. This behaviour change was due to her mental health. She is a very religious person and highly intelligent. She is an alcoholic and she has had a traumatic history. She is able to manage her tenancy and pay her bills on time. She has fits, but they are not due to epilepsy, due to excessive amount of alcohol intake. She hears voices telling her to take her own life. She does not speak about her history of her childhood. She has no positive ties to her family. She had floating support and she did not engage for long.

**Suggestions/Outcomes**

- CI engages with her Dr. Need to speak to Dr and see if he is able to encourage her to engage more with other services.
- Service should not be withdrawn and case should remain with CMHT
- Consider FACS criteria
- Introduce a worker of similar age to CI.
- XX and YY to be involved in this case
- HG to feedback to Michelle Cooper about attending panel on the 3<sup>rd</sup> October.
- Revisit at next panel and be provided with an update.

Form B Presentation at Positive Risk Panel	
Date of Panel: <b>5/9/11</b>	Venue: <b>Civic Centre</b>
Name of Resident: <b>CI</b>	SWIFT No: <b>x</b>
Attendees: <b>Elleke Carling, Jo Powley (for Alison Simmons), Hannah Gaunt, Bernadette O'Shea, Patric Hemsworth (for Martin Elliott), Vishal Davit, Martin Reynolds (for Sharon Brookes), Charlotte Fitzgerald.</b>	
Panel Chair: <b>Charlotte Fitzgerald</b>	
Was Assessment presented?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Was Support Plan presented?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Any other documentation? Please specify:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Risk Assessment, Case Overview.</b>	
Panel Decision:	
<ul style="list-style-type: none"> <li>• <b>Too great a risk to be discharged from CMHT.</b></li> <li>• <b>Similar age worker, look at potential for joint working with Floating Support.</b></li> <li>• <b>Conversation with Head of Psychology – advice and support, 1:1 support with Dr Ronnie.</b></li> <li>• <b>Discussion with GP re: strategies that work, beware of breach of trust.</b></li> <li>• <b>Consider as candidate for personal budget.</b></li> </ul>	
Were all parties in agreement with Panel's recommendations?	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If no give details:	
Any other comments:	

Follow up attendance at Positive Risk Panel required? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
If yes, date of follow up - <b><u>3<sup>rd</sup> October 2011.</u></b>		
Signed (Chair of Panel):	Date:	5/9/2011
<i>Charlotte Fitzgerald.</i>		

Acknowledgements:

Gateshead Positive Risk Taking Policy  
Kingston Risk Policy  
Waltham Forest Risk Taking Policy

**Mr and Mrs W – Vish Ramsamy and Marianne Oommen**

**Summary**

Mr and Mrs W have been married for over 30 years, they live in a sheltered accommodation and over the past couple of months their relationship has deteriorated. Mr W's behaviour has changed and there have been some safeguarding issues raised against Mr W.

Mr W has paranoia and he is seeing people within the room. He has frequent UTIs (Urinary tract infection) and this has an impact on his behaviour. He has no mental health issues. He was taken to placement panel and it was suggested that the couple would go into xxxxx. Both were happy with this solution. While he was in hospital, it was determined that he has capacity and after a discharge meeting was sent home. A further incident occurred with his wife, where Mr W grabbed Mrs W by the arm and left some bruises on her arm. Mrs W used linkline and the LAS and Police came. A Safeguarding investigation took place. They moved into xxxxx, as planned, but did not seem to like it so moved back home. Mr W pulled a carer's hair, then he apologised. Email came in today from the warden and it stated that Mr W punched Mrs W in the face. Mr W behaviour is unpredictable and potentially dangerous to Mrs W. Both appear to understand the risks but have chosen to live at home.

**Outcomes**

- Detailed protection plan is needed as a matter of urgency
- Ability to access Linkline during the night (Device must be easily accessible to Mrs W, even in the dark)
- Ask the warden to visit first thing in the morning and last thing at night.
- Consider double up of carers
- Protection Plan to be followed up

XX will go to Feltham SS and help VR and will feedback to CF.

Form B Presentation at Positive Risk Panel	
Date of Panel: <b>5/9/11</b>	Venue: <b>Civic Centre</b>
Name of Resident: <b>Mr and Mrs W</b>	SWIFT No: <b>x</b>
Attendees: <b>Elleke Carling, Jo Powley (for Alison Simmons), Marianne Oommen, Vish Ramsamy, Bernadette O'Shea, Patric Hemsworth (for Martin Elliott), Vishal Davit, Martin Reynolds (for Sharon Brookes), Charlotte Fitzgerald.</b>	
Panel Chair: <b>Charlotte Fitzgerald</b>	
Was Assessment presented?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Was Support Plan presented?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Any other documentation? Please specify:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li><b>Positive Risk Panel Form</b></li> </ul>	
Panel Decision: <ul style="list-style-type: none"> <li><b>Check accessibility to Linkline, reality of being able to access it.</b></li> <li><b>Protection Plan – with necessary detail – inc. CPN input.</b></li> <li><b>Linkline aware of situation and action to be taken if SGA issue arises.</b></li> <li><b>Housing Warden to pop in first and last thing.</b></li> <li><b>Review schedule of carers visits – what action to take,</b></li> </ul>	
Were all parties in agreement with Panel's recommendations?	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If no give details:	

Any other comments:

**URGENT ATTENTION NEEDED:**

**Vish Ramsamy – concern re: the form and its useability. Protection Plan to be forwarded within one week.**

Follow up attendance at Positive Risk Panel required? Yes  No

If yes, date of follow up: **3<sup>rd</sup> October 2011**

Signed (Chair of Panel):

Date: 5/9/2011

*Charlotte Fitzgerald.*

Acknowledgements:

Gateshead Positive Risk Taking Policy  
Kingston Risk Policy  
Waltham Forest Risk Taking Policy