Safeguarding Framework:

A Person Centred Approach to Risk Management for Clients of Community Support Teams

Version 1.0
Ageing, Disability and Home Care
Department of Family and Community Services NSW
July 2013

NSW GOVERNMENT Family & Community Services
Ageing, Disability & Home Care

Document approval

The ***Safeguarding Framework: A Person Centred Approach to Risk Management for Clients of Community Support Teams*** has been endorsed and approved by:

Peter De Natris

Executive Director, Community Access

Approved: 10 July 2013

☒ Signature on file

Document version control

Distribution:	**ADHC Internal – Community Support Teams**
Document name:	Safeguarding Framework: A Person Centred Approach to Risk Management for Clients of Community Support Teams
Version:	Version 1.0
Document status:	Final
File name:	Safeguarding Framework: A Person Centred Approach to Risk Management for Clients of Community Support Teams
Authoring unit:	Community Access
Date:	July 2013

Table of contents

Section 1: Context

1.1 Introduction

The purpose of the *Safeguarding Framework: A Person Centred Approach to Risk Management for Clients of Community Support Teams ('Safeguarding Framework')* is to support people with disability to have choice and control in their lives, and participate to their fullest potential in their community.

This document provides a framework to promote a shared understanding of safeguarding and how risk management operates in this context. It is supported by practice guidelines that outline a structure for the identification and management of risks that arise as we support people with disability and their families or carers to live their lives.

The *Safeguarding Framework* aims to:

- promote a consistent, statewide understanding of safeguarding and the various types of safeguards that exist at each level of the disability support system for clients of Community Support Teams (CSTs)
- promote a consistent, statewide understanding of the relationship between safeguarding, risk enablement and the provision of person centred support for people with disability
- promote a consistent, statewide approach to risk management for people with disability, and how it fits within a safeguarding framework
- promote a view of risk that is based on values of autonomy and independence
- establish a culture which incorporates the pursuit of best practice approaches to safeguarding and risk management
- encourage early intervention to ensure risks are identified and managed, and crises are minimised
- build a foundation upon which safeguarding and risk management can be monitored, evaluated and informed by the evidence base
- support and develop flexible and innovative regional practices which respond to individual need, emerging and/or changing circumstances
- promote collaboration and partnerships with other services and supports in the disability sector and mainstream services.

The *Safeguarding Framework* applies to all children, young people and adults with disability who access services from ADHC's CSTs. This document is written for all CST staff involved in the planning and/or delivery of supports, and the managers and clinical supervisors who support these staff. The *Safeguarding Framework* may also provide guidance to other ADHC funded services.

The *Safeguarding Framework* sits under the *Enterprise Risk Management Policy (ADHC 2010)* and is complementary to person centred planning approaches used across ADHC, the *Incident Management Policy (ADHC 2007)*, and ADHC's Client Monitoring and Review System. The directions and principles outlined in this document are consistent with the preliminary broad directions and principles proposed by the National Disability Insurance Scheme Advisory Group and Expert Group on Quality, Safeguards and Standards that are guiding the development of national safeguards for the National Disability Insurance Scheme (NDIS).

1.2 Background

Over the past 30 years, there have been significant changes to the way disability has been defined and how people with disability access supports. There has been a move from the deficit model that viewed disability as a feature of the person to be 'corrected' to a social model which views disability as a socially created issue due to the attitudes and other features of the society that do not accommodate the person with disability. Disability is increasingly seen as something that affects most people in the population to varying degrees, and at different stages of their lives. Perceptions of disability also vary greatly across cultures, impacting upon how needs should be assessed and services negotiated and delivered.

Over this time, research and service delivery have increasingly moved from deficits-based to strengths-based approaches. There has been a growing recognition of the need for supports to be framed in the context of a person's whole life, with different phases and transitions influencing how they want to participate in life, the support they might require to do so, and the best time to access it. The role of the person (or their carers) in determining the shape and extent of the supports and resources they access is now seen as critical to service planning and provision.

In NSW the specialist disability service system has been reformed and refocused to support people with a disability and their families through person centred and lifespan approaches. Under *Stronger Together 2* funding is being directed towards self-directed supports and individualised budgets for people who want the option of a more flexible and portable funding arrangement. This is positioning NSW to transition fully to the NDIS by July 2018. The NDIS represents a major change to the disability sector. It will provide lifelong support for people with significant disability who need it. They will have more control over the services and supports they receive, and the flexibility to explore and choose from a wider range of options and providers.

Take up of individualised funding can be a challenge for vulnerable people who do not have resourceful supports and whose developmental stage (impaired or not) can result in risky decision-making (FACS 2012 p75). As self-directed, individually packaged supports are introduced, community education and safeguards will become increasingly important to protect potentially vulnerable people.

Emerging research in the United Kingdom, America and Australia (e.g. DSC 2012; Faulkner & Sweeney 2011) suggests that a supportive service system is one which incorporates person centred, self directed support with safeguarding policy and practice that maximises the rights of people with disability while protecting the most vulnerable. It is increasingly recognised that personalisation and safeguarding have shared principles of promoting independence and control, and that they should work together in a complementary way to support and empower people:

> *'… safeguarding incorporates the concepts of prevention, empowerment and protection to enable {individuals} who are in circumstances that make them vulnerable, to retain independence, well-being and choice and to access their right to a life free from abuse and neglect (Julian 2009 p2).*

The changes described above have been reflected in a number of international, national and state legislative and policy initiatives. A list of the ones underpinning this *Safeguarding Framework* can be found in the Appendix. A more comprehensive overview of the legislation and policies that impact on the work CSTs do to support people with disability and their families and carers can be found in the *Community Support Team Practice Package*.

1.3 Safeguarding in a person centred system

1.3.1 What is safeguarding?

'Safeguarding' is a range of activity intended to uphold a person's fundamental right to be safe at the same time as respecting their right to be independent, make choices and make informed decisions about taking risks (Williams 2010 p4). Safeguarding is a proactive approach to maximising safety. It is consistent with early intervention[1] and prevention where action is taken early to prevent a problem emerging, or to limit its impact. Safeguarding emphasises:

- a high level of awareness of the risks of harm
- promoting high standards of practice (Murray & Osborne 2009)
- strengthening the capacity of a person and their family to help themselves
- a strong understanding of each person's indicators of risk and distress.

In Australia there are many formal safeguards in place across the public and private sectors to help maintain a functioning society and protect human rights and freedom. These include political and justice systems, legislation, monitoring bodies, arbitration and complaints mechanisms, public information and the provision of basic services such as health care and education.

Most people can access these general safeguards, however those who are vulnerable to increased risk of harm, abuse or neglect may require additional support to do so. Over time specific safeguards have been developed within the disability system to reduce the vulnerability of people with disability and maximise their control over their life.

1.3.2 Safeguarding in the disability sector

People's vulnerabilities, needs and support arrangements change across their lifespan, so safeguards will look different for people at different life stages. Safeguarding in the disability sector can be broadly categorised into four levels:

System level – legislation, regulation and policy that mandates the rights of people with disability and establishes the parameters for service provision (e.g. *NSW Disability Services Act 1993*; *Australian Human Rights Commission; Commonwealth Disability Discrimination Act 1992; NSW Ombudsman).*

Service level – processes that guide the provision of support at the disability provider level including mandated service requirements that incorporate safeguards (e.g. quality frameworks, complaints mechanisms, police checks for employees, professional registration of staff).

Individual level – these safeguards relate to and influence the way that individuals are supported. They include practices and mechanisms focussed on enabling choice and protecting individuals and families as part of providing support (e.g. person centred planning, supported decision making, incident reporting processes, provisions for restrictive practice).

Community level – external mechanisms for independent review and monitoring (e.g. advocacy organisations, the Ombudsman, Office of the Public Guardian, the Community Visitor Scheme).

Safeguards can operate within one level only or across a number of levels (for example complaints mechanisms). Safeguards can also be categorised as:

[1] In this context early intervention is defined as type of intervention which is relevant to all age groups, It is broader than early childhood intervention which supports families with a young child with disability.

Corrective – these are formal safeguards implemented after a risk or incident has occurred. Examples include trauma support, serious case review, appeals and complaints handling mechanisms.

Protective or preventative – these are formal safeguards that actively address identified risks for individuals to prevent or reduce the likelihood of harm. Examples include risk assessment and management, protective policies, and staff training.

Developmental – these are informal safeguards that focus on developing social conditions for inclusion and protection of people with disability and supporting their valued status in the community (DSC 2012 p10). Examples include natural relationships and connections, community development, accessibility, sustainable care arrangements. These types of safeguards can be intentional (things that we do on purpose to help reduce people's vulnerability) or unintentional (things that happen by chance). Safeguards that happen by chance can be very effective, but should not be solely relied on for those who are vulnerable.

Corrective and preventative safeguards have historically been a significant focus of risk management systems in the specialist disability sector. These safeguards continue to be important however the move to person centred approaches has emphasised changing and supporting practice to prevent incidents, rather than developing systems based on a response approach. By supporting people's right to exercise choice and control, person centred practice helps establish developmental or 'natural' safeguards which act as preventative measures and minimise the likelihood of harm.

For most people, including those with disability, natural safeguards are the most effective. The literature highlights the importance of positive family and community connections which create natural safeguards by providing a supportive environment and the ability for people to have someone they can share concerns with (e.g. Ansello & O'Neill (2010); Donohue, Dibble & Schiamberg (2008); Wilson, Burns & Brown (2003). However sometimes a person's situation means they are unable to access natural safeguards, or appropriate natural safeguards do not exist for them. In these cases research emphasises the value of identifying the factors that make a person vulnerable and providing formal safeguards (Faulkner & Sweeney 2011 p8).

An example of this is ADHC's Client Monitoring and Review System (CMRS). This is a safeguarding mechanism that sits at the service level to ensure that appropriate systems, resources and governance are in place within each district to effectively respond to people who are specifically identified as vulnerable and have complex support needs. It is important to ensure that assessment, planning and support provided to the people identified in this group is undertaken in line with the principles outlined in this framework.

Safeguarding is a difficult balance between maximising choice and control and ensuring adequate protection for those who need it (DOH 2008). It requires a systematic and systemic approach to building developmental, preventative and corrective safeguards across all levels and areas of the community and service system (SA MDAC p10). It is also about encouraging individuals and organisations to develop a safeguarding mentality and adopt developmental safeguards wherever possible.

This document outlines a framework for risk management which is person centred and empowers people to make choices and informed decisions about taking risks. In this way the *Safeguarding Framework* functions as a developmental safeguarding mechanism that operates at the individual level.

1.4 New directions in risk management

ST2 and the NDIS will enable people with disability and their family and carers to be at the centre of decision making about how they live their lives, what they want to achieve, and how services and resources will support this. Everyday choices, opportunities and life changing decisions all involve a level of risk which can be positive or negative. The nature

and perception of risk varies depending on the person and their context, and other factors like age, vulnerability, decision making capacity, level of independence, available supports and relationships. What is regarded as 'risky behaviour' and whether a risk is worth taking may be viewed very differently by a person, their family and carers and agency staff (Ryan 2000; Stalker 2003; O'Brien, Ford & Malloy 2005; Manthorpe & Bowes 2010).

Taking risks can be a positive, empowering process. The concept of 'dignity of risk' recognises that people with disability have a right to make their own decisions - including what others perceive to be unwise decisions - and to take reasonable risks in their everyday life. At the same time, services are required to exercise duty of care. Duty of care is a legal obligation that arises in civil liability for damage or injury. It requires people or the agency supporting a person with disability, to exercise reasonable care to avoid causing damage or loss that they could have reasonably foreseen. Many agencies also have a statutory obligation to safeguard or protect people against abuse[2], and have a responsibility to ensure that staff working with people are safe, and not exposed to health and safety risks (*Work Health and Safety Act 2012)*.

Research indicates that traditional approaches to risk management have been characterised as 'hazard based' and technical, where "a person is treated as an object to be assessed by the 'experts' rather than as an agent in their own lives, part of a family, community and society, with legal rights and choices" (Neill et al 2008 p19). Staff have tended to focus on what might go wrong rather than the opportunities risk can present, and positive solutions to make it work. This means that the experience of many people who rely on human services for support is that 'risk' is the reason services give them for why they can't do things that other people do (Neill et al 2008 p2).

The impact of news media and underlying fears of litigation mean that a person's unpredictable actions can have an amplified impact on the reputation of services and political institutions. Because of this, the tendency has been for agencies to risk manage 'everything' (Power 2004, cited in Neill et al 2008 p36) and provide more limited and rigid service responses, often resulting in a denial of rights to some of the most vulnerable people (Sykes 2005). However, researchers point out that denying opportunities to people based on a lack of information, general assumptions, 'being on the safe side' or because of fears of criticism or liability is not legitimate practice (Carr 2010 p6).

Risks change over time with changes to routines, environments or events. At any time, there may be people who have vulnerabilities which may place them or others at risk if their needs remain unresolved. This may be due to the complexity of support required, system related issues, no available, appropriate options in the person's community or a lack of natural safeguards (ADHC 2011). Individuals and their carers should be able to make their own decisions and take risks which they deem to be acceptable to lead their lives their way (Close 2009 p1). Research is clearly showing that the most effective way to manage risk and enable positive risk taking is to work closely with a person in their own context in order to negotiate the levels of risk enablement and safeguarding that are appropriate for that person (Carr 2010 p28).

[2] As outlined in *Child Wellbeing and Child Protection; NSW Interagency Guidelines* 2009-11 and the *Interagency Protocol for Responding to Abuse of Older People, 2007*

Section 2: Framework

2.1 A positive approach to risk

Effective risk management can be described as finding a balance between positive risk taking around the values of autonomy and independence, and a policy of protection for the person and the community based on minimising harm (Bates & Silberman 2007 p6, cited in Neill et al 2008). ADHC's positive risk management approach sits within the individual level of safeguarding. However it does not operate independently of other safeguarding processes. It has relationships and interdependencies with safeguarding mechanisms that operate across both the disability sector and the wider community.

2.1.1 Guiding principles

ADHC's positive approach to risk management for people with disability will recognise that safeguarding and risk management is everyone's responsibility and will:

- support person and family centred practices that empower people, increase resilience, and strengthen appropriate informal supports and community links
- embed risk management at the level of individual safeguarding
- occur in the context of person centred planning
- respect the rights of a person and their family or carers to make choices
- support strengths based practices
- acknowledge the importance of self determination in decision making for people with disability and their family or carers
- understand a person's capacity for making decisions
- support an informed person's right to undertake activities that have a level of risk, and/or make what others perceive as unwise decisions
- balance ADHC's responsibilities for duty of care with dignity of risk for the person
- support staff to seek legal advice where there is uncertainty about balancing risk and a person's rights
- support staff to record decisions where a balanced approach to risk management has been taken and acknowledge these when it is necessary to report on incidents arising following such decisions
- be sensitive to a person's changing aspirations, needs and circumstances which may occur at various points throughout their lifetime
- be age appropriate and focus on enabling the person with disability to have similar opportunities and experiences as their peers
- be proactive, and embedded within an early intervention and prevention approach which maximises the person's safety
- be culturally competent and respectful, and meet the needs of Aboriginal people and those from culturally and linguistically diverse backgrounds
- promote collaboration and partnerships with disability and mainstream services
- focus on functional outcomes and evidence based practice; and
- train, support and inform staff about safeguarding, person centred, positive risk management and their obligations under relevant legislation.

2.2 A person centred risk management framework

This framework is based on the criteria for positive risk taking proposed by Bates and Silberman (2007) and the person centred processes and tools that Neill et al (2008) believe can support these criteria. The criteria and how they can be applied to ADHC's CSTs are described below:

2.2.1 Involvement of the person and their family or carers

In traditional approaches to risk management, the person or group making the decisions are often not the ones affected by the risk. Involving the person with disability and their family and carers should be the basis of person centred approaches to assessment, planning and risk management. Understanding what makes people safe requires understanding them as people – understanding their personalities, their experiences, their family relationships, their wishes for the future and their past histories of choices (DOH 2009 p16). Staff need to understand what the person and their family and carers want, how they view their own risks and each person's responsibility in managing risks effectively (Bates & Silberman 2007p7, cited in Neill et al 2008).

2.2.2 Positive and informed risk taking

Positive and informed risk taking seeks to learn what the person's strengths, skills, gifts and capacity for decision making are, as well as investigating what would be necessary to keep them and others safe while taking the risk (Faulkner & Sweeney 2011 p32). It looks at risk from the point of view of the person, family and community - not just the service provider. It takes into account differences in power and status and how this can influence decisions about risk. The process is based on looking at creative ways that people can achieve their goals rather than ruling them out, and should be informed by current law and legislation (Sykes 2005). The person's quality of life should be 'maximised while people and communities are kept as safe as can be reasonably expected within a free society' (Faulkner & Sweeney 2011 p32).

2.2.3 Proportionality

This means that the time and effort spent on managing a risk should match the severity of that risk. The more serious the issue, the more people and the more time should be spent considering it in greater detail (Sykes 2005). It also means exploring the consequence/s of not taking the proposed risk (such as loss of autonomy or restriction of choice) and the impact on the person, their family, community and supports. The least restrictive option to assist in managing the risk is the most appropriate response.

2.2.4 Contextualising behaviour

This is about building a picture of what has been learned about what is the best support for the person. It involves gathering together previous history and information about the person, their social environment, their perspectives and experience of the risk, what has and has not worked in particular situations, and an understanding of their behaviour in different contexts (Sykes 2005). Privacy and confidentiality are rights under legislation and require an appropriate degree of attention. However, it may be deemed necessary to share important information with others in order to manage potential risks. This should always be done in line with current ADHC privacy and information management policies.

2.2.5 Defensible decision making

Assisting people to make choices involves responsible, supported decision making. This means recording clear and justifiable reasons for all the decisions made, the discussions that led to the decisions, and reference to any relevant legislation. There should be written and/or electronic records about what has been discussed, the different perspectives, issues and solutions that have been considered, and any legal issues that might affect the risk decision (Neill et al 2008). The aim is that this provides a clear document trail that identifies why certain decisions have been adopted, and others have not. This evidence can then be referred to if an incident occurs.

2.2.6 Tolerable risks

This is about promoting a more balanced and rational approach to risk. It involves negotiating and balancing issues of safeguarding and risk to identify what is acceptable for everyone (the person and others including the community) on a case by case basis. It means finding ways that a person can achieve what is important to them, while considering what keeps that person and the community safe in a way that makes sense for that person (Sykes 2005). This is not an easy thing to do, and will look different for each person.

2.2.7 A learning culture

A positive and productive approach to safeguarding and risk emphasises a commitment to ongoing learning and the use of reflective practice for staff. It is about looking at what is and is not working, defining core duties for staff and their scope of judgment and creativity in relation to the risk (Sykes 2005). Staff training and awareness has an important role to play in effective risk enablement (Carr 2010 p31). Safeguarding, risk assessment and mitigation requires regular casework monitoring and review. Incidents and events will still occur when risk management is practiced and these should be recorded, reported and managed according to the *Incident Management Policy (2007, amended 2010)*. The occurrence of incidents can provide information about risks and the effectiveness of mitigation strategies.

2.3 Summary

Looking towards the implementation of the NDIS, safeguarding and positive risk taking needs to be an integral part of the self directed support process, including planning, provision of supports, review and decision making. Empowerment and choice need to be at the core of safeguarding policy and practice (Faulkner & Sweeney 2011 p32). The next section outlines a structure for managing risks that are identified in the process of supporting people with disability in a person centred way.

Section 3: Practice Guidelines

3.1 Approaches to practice

3.1.1 Person centred practice

A person centred system places the person with disability at the centre of decision making about the supports and services they use. A person centred approach is about listening carefully to what is important to a person - what they want to achieve, their dreams, hopes, fears, needs and wishes. It also includes what a person does not want to have happen for them. In a person centred system, the rights of people with disability, their families and people in their support networks to make choices about their own lives are respected. This means they are heard and supported to exercise choice and to direct their supports and service arrangements. Person centred practices can help to 'weave' natural safeguards into a person's life, particularly in the areas of supportive relationship building, limiting dependence on services and reducing social isolation (SA MDAC p19).

3.1.2 Person centred planning

ADHC has adopted person centred approaches to planning for supports for people with disability. This means enabling a person to determine their goals, to consider their choices and decide on supports and interventions. The purpose of planning is to increase a person's independence, valued status and participation in the community[3]. ADHC's positive approach to risk means risk management should happen in the context of person centred planning. If risk management is embedded in the planning process, the focus is on overcoming barriers to active participation in community life, rather than risk profiles which focus on what might go wrong and try to risk manage everything. A positive approach involves creative thinking and professional judgement about the opportunities risk can present, and solutions to make it work.

3.1.3 Strengths focused practice

Strengths focused practice identifies and builds on the strengths and capacities of the person, their family, carers, and others in their support network. A focus on strengths is fundamental to developing a vision of risk that is positive and non-limiting. Focusing on strengths means you acknowledge that:

- every individual, group, family and community has strengths (Saleebey 2002)
- trauma, abuse, illness and difficult experiences may cause harm, but are also sources of challenge and opportunity (Saleebey 1999)
- we do not know the upper limits of a person's potential to grow and change, so their dreams must be taken seriously (ACU Consortium 2008)
- every environment is full of resources (ACU Consortium 2008).

A strengths based approach to your work means that wherever possible, you should:

- foster a positive attitude towards the person's dignity, capacities, rights, uniqueness and commonalities
- enable the person to control and direct the process of change

[3] For more comprehensive information about person centred planning and how to do it, refer to the *Lifestyle Planning Policy* and *Lifestyle Planning Guidelines* (ADHC Accommodation Policy Directorate 2010) and *Case Management Policy* and *Case Management Practice Guide* (ADHC Community Access Directorate 2009).

- enable the person to identify and use their strengths and capacities
- provide resources to complement the person's strengths and resources, rather than compensating for deficits
- acknowledge and address power imbalances between the person and staff who work with them (ADHC 2009 p11-12).

3.2 Guidelines for practice

The assessment and management of associated risks should be guided by a person centred framework. Neill et al (2008) outline a person centred approach to risk management that asks five questions:

Who is the person?

Where are we now?

Where do we want to be?

What have we tried and learned already?

What shall we do next?

These questions have been adopted as a structure for assessing and managing risk in ADHC's CSTs. Because of the often complex situations of the people ADHC supports, the following five questions have been added:

How will we justify our decisions?

How will we review progress?

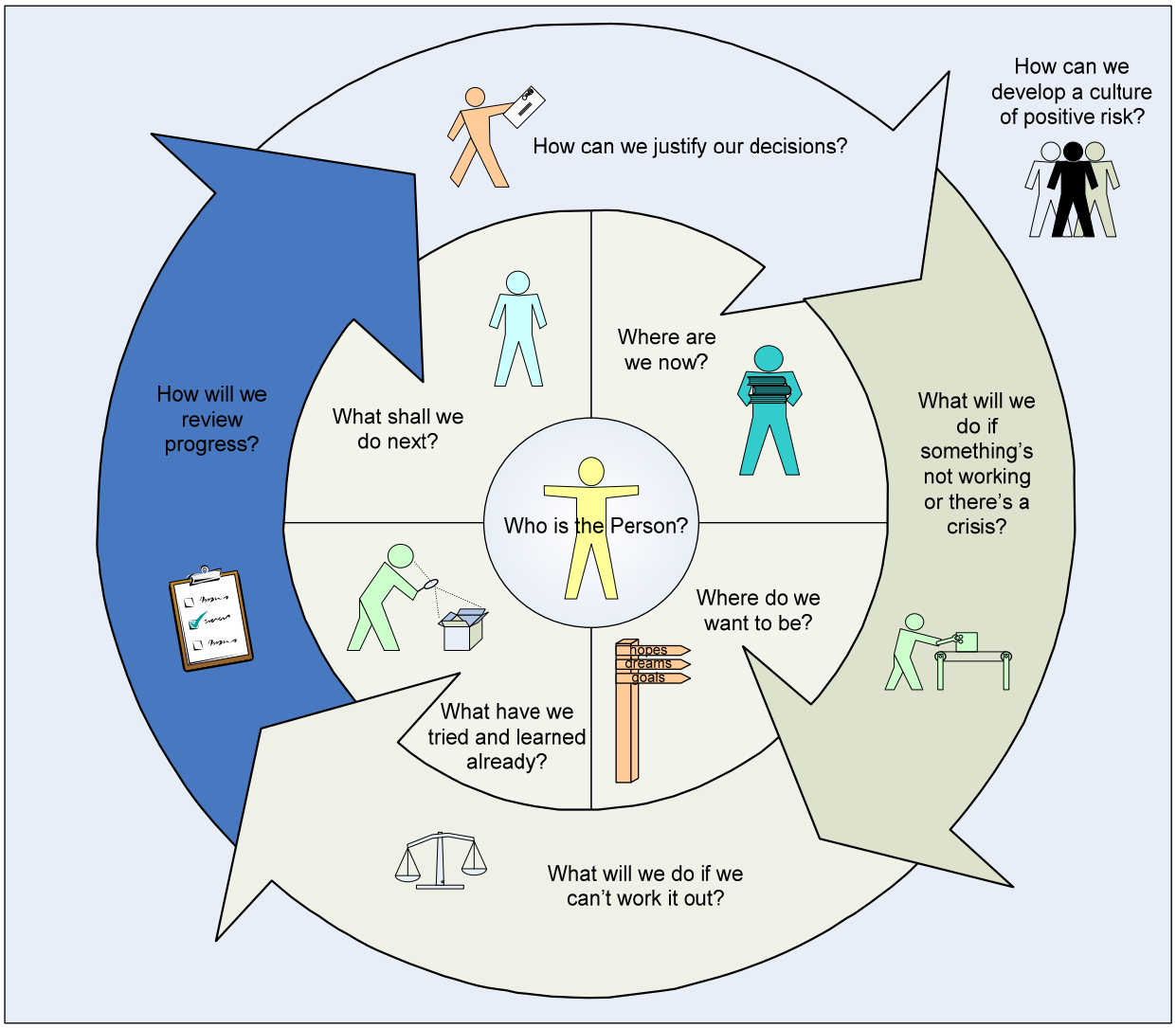
What will we do if we can not work it out?

What will we do if something is not working or there is a crisis?

How can we develop a culture of positive risk?

This structure is described in the following sections. When a risk is identified in the process of developing a person's plan, this structure can be used to assess the scope and consequences of the risk, the resources available, and how it can be managed.

The structure is not meant to be a 'checklist', but is intended to guide staff thinking and practice. The simpler the process and practice of risk assessment is, the more effective it can be (DOH 2007 p26-27).



Visual representation of ADHC's structure for assessing and managing risk in Community Support Teams with the person at the centre of the process. The process involves gathering information, determining where the person wants to be and how to make that happen in the context of safeguarding.

3.2.1 Who is the person?

What information do we need?

The person centred planning process should provide information about who the person is. We need to understand their capabilities, gifts, skills, what is important to them, and what makes the best support for them. As the person develops their plan and identifies their needs and lifestyle choices, risks may be identified. The nature of the risk/s may mean that additional information now needs to be gathered so they can be managed effectively.

How can we put this into practice?

In addition to the information gathered to develop the person's plan, we need to consider:

- who else needs to participate in the process of managing the risk?
- what extra information is required to understand the nature and impact of the risk?
- what information does the person (and/or others) need so they can participate fully in the process?
- what communication needs, aids or supports does the person (and/or others) need so they can participate fully in the process?

Can the person make decisions?

It is also important to understand if the person can make decisions in relation to the risk. This is known as 'capacity'. Generally, when a person has capacity to make a particular decision they can:

- understand the facts and the main choices involved
- weigh up the consequences of the choices
- understand how the consequences affect them and/or others, and communicate their decision (AGD 2009 p10).

Capacity varies from person to person and from situation to situation. Capacity is not the same all the time. It is affected by a person's abilities and by what is happening around them. For example a person with a mental illness may have capacity to make decisions at certain times but not others. A person can regain capacity or increase their capacity by learning new skills that will enable them to make certain decisions themselves.

It is also important to remember that capacity is decision specific. This means that where there is doubt, a person's capacity must be reassessed every time a decision needs to be made (AGD 2009 p23). If a person does not have the capacity to make a certain decision, a substitute decision-maker might need to make the decision for them. More information about capacity, how to assess a person's capacity and how to support people to make decisions can be found through ADHC's Decision Making and Consent: Policy and Procedures (2012) and the Attorney General's Department of NSW.

How can we put this into practice?

Under the law, we must presume that every adult has capacity to make decisions unless it is established otherwise. We also need to consider the person's:

- diversity, race, culture, gender and age, and how these may impact on decision making for them about the particular risk
- current health - do they have any medical condition which might affect their decision making?
- level of self determination
- ability to identify their own risks
- ability to find solutions.

What person centred tools are available to support this?

- *All about me, my family & friends*
- *Family Assessment Project Facilitation Tool - Skills section (Ability to Safeguard and Promote the Welfare of the Child) and Assessment section (Parent Domain Guidance & Boundaries)*
- *Relationship map*

3.2.2 Where are we now?

Not every situation or activity leads to a risk that needs to be assessed or managed. The risk may be small and no greater for the person with disability than it would be for anyone else. However staff will need to provide support:

- when assistance is needed to maximise independence and help minimise risk
- to make sure everyone is aware of the risks and understands them so they are making informed decisions

- when one person's choice places an unmanageable responsibility on another, so that others are protected (DOH 2007 p25).

The time and effort spent on managing a risk should match the severity of the risk. The more serious the risk, the more people and the more time should be spent considering it in greater detail (Neill et al 2008). It is important to take time to clearly define the issues.

How can we put this into practice?

The aim is to build a picture of what currently is, and is not working so that when strategies are developed, they do not conflict with what already works well. You will need to consider the following:

- what is the problem you are trying to solve?
- how do people see the risk? Consider the risk from all points of view (the person, their family and the community - not just the service provider and staff).
- are there any differences in power and status? How is this influencing people's perceptions and experience of the risk?
- what decisions and choices has the person made in the past about the risk?
- is the person easily influenced or pressured by others?
- is there disagreement about what is in the best interests of the person?

What person centred tools are available to support this?

- *Working/Not Working*
- *Important To/For*

3.2.3 Where do we want to be?

A person centred approach to risk focuses on the outcome for the person. This stage of the process is about exploring how things could be different or better for the person – from their perspective as well as those around them.

It is important to acknowledge that there will always be some risk, and that trying to remove risk altogether can outweigh the quality of life benefits for the person. Some risks cannot be completely removed or managed, however much support the person may have (DOH 2007 p12). Good practice means always considering the person's choices - even when the risks can't be totally eliminated.

The consequence/s of *not* taking the proposed risk should also be explored, and how this will impact on the person, their family, community and supports. This includes opportunities that might be lost if the person is not supported to take the risk, such as restriction of choice or loss of independence (Neill et al 2008).

Protecting a person from making what you think is an unwise decision may seem helpful, however everyone has their own values, morals, beliefs, attitudes, likes and dislikes. You might think a decision is bad, but someone else will think it is good.

Most of us take chances or make bad decisions occasionally. The right to make a decision includes the right to take risks, make mistakes and make decisions others disagree with. This is known as dignity of risk. If a person is not allowed to confront a difficult decision or its consequences, their right to be in control of their life is denied (AGD 2009 p29).

How can we put this into practice?

You will need to consider the following:

- what is everyone trying to achieve in their support of the person's goals?

- what does success look like for the person, their family and community, staff and the organisation?
- what would make things better?
- will it mean the person can have similar opportunities and experiences as peers?
- what does current relevant law and legislation say?
- what opportunities will be missed if we do not support the person to take the risk?

What person centred tools are available to support this?

- *Families dream for the future*
- *ADHC person centred plan*
- *ADHC lifestyle action plan*
- *One page profile to person centred plan*

3.2.4 What have we tried and learned already?

A lot of learning and knowledge around risk issues is wasted when new strategies are tried without looking at what has happened in the past (Neill et al 2008 p11). It is important to explore history and information about the person that relates to the risk issue. This includes any support plans, the person's social environment, their perspectives and experience of the risk, what has and has not worked in particular situations, and an understanding of the person's behaviour in different contexts.

How can we put this into practice?

- Person centred thinking tools such as the *4+1 Questions* can be used to gather knowledge of the person and their significant others about the history of the issue, and to bring all the information together using four questions:
    1. ***What have you tried?***
    2. ***What have you learned?***
    3. ***What are you pleased about?***
    4. ***What are you concerned about?***
- Be aware that information will sometimes be incomplete and possibly inaccurate.
- In the process of gathering information it may be necessary to share important information with others in order to manage potential risks. Privacy and confidentiality are rights under legislation. If you are going to give the personal information you have collected to anyone, you have to get permission. You need to explain to the person who owns the information which people you are going to give their information to and why.
- A person's privacy is balanced against their personal interests such as health or safety, and there are some situations where disclosure of information without consent is appropriate. ADHC's *Privacy Management Plan (2011)* has more information about this.

What person centred tools are available to support this?

- *4+1 Questions*

3.2.5 What shall we do next?

At this stage of the process the person should be supported to think about ways to address the risks that have been identified. This involves negotiating and balancing issues of risk and safety to identify what is acceptable for everyone - the person, their family or carers and others in the community.

It may mean supporting the person's right to undertake activities that have a level of risk, or make an 'unwise' decision. Staff have responsibility to support the person to look at all options, even if they would differ from the staff member's own choices. Neill et al (2008 p10) suggest using creative thinking techniques to move the person from a situation where they are "happy but unsafe to where they and the community are safer", or where the person is "safe but unhappy, to where they can be happier".

How can we put this into practice?

- The most obvious solutions should be considered first and then person centred tools can be used to generate a wider range of solutions (Neill et al 2008).
- Focus on what is important to the person, what the best support looks like and what is positive and possible (Neill et al 2008).
- If there is more than one solution, provide the person with the facts they need on all the options in a balanced way. Discuss the risks, benefits, and any possible consequences, of each choice.
- It is important that the person (and others) understand their responsibilities and the effects each choice may have on them and those around them. They may need support to do this before they can make their best decisions. This may mean providing them with information in a form they understand, or supporting them to access specialist advice (such as a medical practitioner, financial or legal advisor).
- Positive risk-taking may sometimes involve considering the short-term and long-term situation. Higher risk may need to be tolerated and managed in the short term to achieve longer-term positive gains.

What person centred tools are available to support this?

- *Blue Sky Thinking tool*
- *'Happy/Safe' grid*
- *Donut tool*

3.2.6 How will we justify our decisions?

> *"We feel it is important to remember people's rights, including the right to make 'bad' decisions, and to gather the fullest information and evidence to demonstrate that we have thought deeply about all the issues involved and made decisions together based on what is important to the person, what is needed to keep them healthy and safe and on what the law tells us" (Neill et al 2008 p11).*

Assisting people to make choices involves responsible, supported decision making. This means you have:

- taken all reasonable steps to avoid harm
- used reliable assessment methods
- included all relevant people in the decision making process
- collected and thoroughly evaluated relevant information
- followed policies and procedures
- recorded decisions and carried them out.

It is extremely important to keep accurate records of discussions and decisions that take place about areas of choice. Good documentation:

- encourages an open discussion with the person about the consequences of particular choices
- protects the person making their choices
- helps staff and managers defend their decisions and reasoning in the event of any incidents, complaints or litigation (DOH 2007 p19).

There should be written and/or electronic records that document clear and justifiable reasons for all decisions made. This should include the discussions that led to the decisions, and the different perspectives, issues and solutions that were considered (Neill et al 2008).

ADHC has a number of policies, procedures and practice tools to safeguard people in specific areas to ensure they are receiving care and support in the least restrictive way. These include health care, nutrition and swallowing, epilepsy, behaviour and financial management. These policies and guidelines currently have their own management plans, support plans and templates.

Wherever possible a **single plan** should be developed that integrates all areas of risk. It is preferable to record strategies and decisions on person centred templates. This supports positive risk taking practice in the context of person centred planning, rather than as a number of separate processes. Remember, the simpler the process and practice of risk assessment is, the more effective it can be (DOH 2007 p26-27).

How can we put this into practice?

ADHC's minimum requirement for documentation about risk on a person's plan is:

- potential risk factors
- concerns or difficulties
- strategies for prevention, including how to respond to these
- timeframes, roles and responsibilities of all involved in the plan; and
- a review date (ADHC 2010 p14).

When recording decisions about risk, you should also include the following information:

- What issues and options were considered?
- How did you come to a decision?
- What things were important when you were making the decision?
- Were there any legal issues that affected the decision?
- How did you balance those things when you were making the decision?
- What were the risks, benefits and any possible consequences of making, or *not* making, the decision?
- Who was involved in making the final decision?
- Who was accountable for what actions, and when?

What person centred tools are available to support this?

- *Decision Making Profile*
- *Decision Making Agreement*

3.2.7 How will we review progress?

Monitoring should be an active and ongoing part of positive risk management. The purpose of monitoring is to identify the effectiveness and relevance of risk management strategies, and the person's progress towards their goals.

Monitoring helps to identify any changes in the person's circumstances or environment which may result in the need to change or modify the plan. This means that any issues or unanticipated problems can be identified and addressed early, in order to prevent crisis situations developing. Monitoring also helps identify what works, and contributes to ongoing learning within ADHC, and for the person and their family or carers.

How can we put this into practice?

- Agreement should be reached with everyone involved about how actions within the plan will be monitored and reviewed, and when.
- Working within shorter timescales and with smaller goals broken down allows for more frequent monitoring and means decisions can be changed quickly when needed (including intervening in a more restrictive way where necessary).
- Wherever possible, valid person centred outcome measures should be used to review progress.

What person centred tools are available to support this?

- *Families dream for the future*
- *All about me, my family & friends*
- *Working/Not Working*
- *Important To/For*
- *4+1 Questions*
- *Reviewing Progress 4 + 2*

3.2.8 What will we do if we can not work it out?

Situations will arise where there is:

- uncertainty about balancing risk and a person's rights
- disagreement about risks and what decision should be made
- a problem that seems unsolvable.

Information is provided about these situations below, however it is important to always discuss these with your line manager. ADHC's Decision Making and Consent: Policy and Procedures (2012) provides additional information about decision making and duty of care. You can also get advice from other directorates and agencies, such as FACS Law and Justice Directorate, the Attorney General's Department of NSW, and Community Justice Centres.

How do we balance risk and a person's rights?

There is a delicate balance between empowerment and safeguarding, choice and risk. When you are supporting someone's choice, it can be difficult to stand back and watch someone take a risky path. It is important to remember that positive risk taking 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' (Morgan 2004 p18-19).

That is why it is important to engage in proper discussion with the person. Be sure they understand the consequences of the action, document it, and consider when the need for protection would override the decision to promote choice (DOH 2007 p29).

What if I think the person is making the wrong decision?

If you are asked to support a choice or activity that you are concerned about or that makes you uncomfortable, you should use your own judgement, but also seek advice from your line manager or supervisor. Remember that if a person makes an unwise decision, or one that you do not agree with, it does not mean that they lack capacity.

When supporting the person you should assess their decision making ability, not the decision they make. However, you may question a person's capacity to make a decision if their decision:

- puts them at significant risk of harm or mistreatment
- is very different from their usual decisions.

Information about when to question if someone has capacity and how to assess capacity is available through the Attorney General's Department of NSW.

What is my duty of care?

Fear of legal action can understandably influence how far it seems reasonable to support a person in managing risk. Duty of care is a legal obligation that arises in civil liability for damage or injury. It requires people or the agency supporting a person with disability, to exercise reasonable care to avoid causing damage or loss that they could have reasonably foreseen.

This means ADHC staff must maintain an appropriate standard of care in all the circumstances of their work and not be negligent. This includes ensuring you raise situations with your line manager which may be outside your scope to approve, and record all decisions. The likelihood of any legal action being successful will only arise where ADHC's duty of care is breached through negligent acts or omissions and a person suffers injury as a result. Refer to ADHC's Dignity of Risk and Duty of Care: Policy & Procedures (1996, amended 2010) for more information.

A person who has the capacity to make a decision, and chooses to live with a level of risk is entitled to do so. The law will treat that person as having consented to the risk, so there will be no breach of duty of care by staff. However ADHC remains accountable for the proper use of its public funds, and while the person is entitled to live with a degree of risk, ADHC may not be obliged to fund it.

How can we put this into practice?

- Make sure you understand the person's capacity for making decisions about the risk you are managing.
- Risk-taking should happen in the context of promoting opportunities and safety, not negligence.
- Positive risk-taking needs to incorporate contingency planning that addresses people's fears and concerns for failure. The focus should be on preventing harmful outcomes where possible and reducing others.
- Everyone involved should be encouraged to learn to think about 'what ifs' and contingencies as part of their day-to-day thinking.
- If a person starts behaving recklessly, it may be necessary to put specific boundaries in place to contain situations that are developing into potentially dangerous circumstances.

- If a person or their carer makes a decision to continue behaviour that is reckless, a record should be made of their decision and when it was taken, and you should seek advice from your line manager. If staff are affected by this decision, review the way they are providing support so that their safety is maximised.

ADHC's Law and Justice Directorate can provide more information about duty of care and dignity of risk for particular situations.

What if there is disagreement about what decision should be made?

The most basic principle is to presume a person has the capacity to make their own decisions, unless it is established otherwise. Decisions must be made freely and voluntarily. The person should not feel pressured or deceived into making a decision they would not otherwise make. People who have difficulty making decisions, or who are dependent on others financially, physically or emotionally, are more at risk of being unduly influenced.

Where people's choices conflict with those that carers or family members have made on their behalf, it is important to balance everyone's needs and rights, and find a resolution acceptable to all involved (DOH 2007 p5). Issues can also arise when staff cannot agree about the best support arrangements. In complex situations where choices are very limited, people still need to be supported to make choices about how to live their lives and manage risks.

How can we put this into practice?

There is a disagreement about the person's capacity to make a decision about a particular risk:

- Are you clear about the person's capacity for making decisions in the context of planning for risks?
- Does the person have all the information they need to make an informed decision?
- Do others involved have all the information they need to make an informed decision?
- Getting a second opinion of a person's capacity may resolve a dispute.
- In cases where agreement cannot be reached a substitute decision maker may need to be appointed. Refer to ADHC's Decision Making and Consent: Policy and Procedures (2012).
- More detailed information and tools for assessing a person's capacity and working with substitute decision makers can be obtained from the Attorney General's Department of NSW.

There is disagreement about the best way to support the person:

- Addressing disagreements early will often stop the dispute developing into something more serious.
- It is usually better to try and resolve issues informally as the matter is resolved more quickly, with less stress and at less cost than if formal methods are used.
- A person may just need you to listen, acknowledge and discuss their issues without criticism. This could resolve the disagreement.
- If the issue is not urgent, giving everyone involved time to process the information may help them to accept a different point of view (AGD 2009 p156).

- An advocate may be able to help resolve a disagreement in difficult situations by presenting a person's views to their family, friends, carers or staff while ensuring the person's interests and rights are protected.
- It may be helpful to invite someone independent to chair a meeting so everyone's views and concerns are heard. This may be particularly advisable when one person is better than another at stating their views. You could engage a professional mediator.
- Trial periods should be considered when the risks appear to be significant. For example a person wishing to return home from hospital when clinical opinion is that this would be too risky.

There is an established or assumed power imbalance between the people involved and/or the person with disability is being unduly influenced:

- If you suspect undue influence, try communicating with the person making the decision, without the other person present. Ask questions that will separate the views of the person from the views of others (AGD 2009 p70).
- To find out whether the person's decision is what they wanted, start by asking them who else was involved in the decision-making process. You need to work out whether the involvement of other people supported the person through the decision-making process, or if it was overbearing and distorted the person's real wishes (Saleebey 1999).
- You might need to support the person to access specialist advice, such as advice from a medical practitioner, a financial or legal advisor, depending on the nature of the decision (AGD 2009 p149).
- Informal methods of resolving disputes may be inappropriate where there is an established pattern of behaviour, or a power imbalance in relation to the people involved. In these cases you can seek advice or assistance with mediation or conflict management from your local Community Justice Centre (AGD 2009 p157).

The situation can not be resolved informally:

- If a disagreement can't be resolved informally or is so serious that informal resolution is not suitable, it should initially be referred to the Guardianship Tribunal. You should always talk to your line manager before making a referral to the Tribunal. You can refer to ADHC's Decision Making and Consent: Policy and Procedures (2012) for more information and your line manager can support you to contact the Tribunal for guidance and advice.

What if the problem seems unsolvable?

At any time there may be people who have risk factors which place them or others at risk because their support needs cannot be met in the short term. This may be due to the complexity of the support required, system related issues, or a lack of available, appropriate options in the person's community (ADHC 2011).

ADHC has a system of client review, monitoring and clinical governance in place at a local and central level to support vulnerable people and achieve good outcomes for them (ADHC 2011). It is important to make your line manager aware of these situations as soon as possible so proactive planning can occur at a regional level.

How can we put this into practice?

- Always talk to your line manager in the first instance.
- Line managers have responsibility to escalate the issue to regional management for review.

3.2.9 What will we do if something is not working or there is a crisis?

Even when good approaches are used and the correct processes are followed, incidents and events will still occur. They should be recorded, reported and managed according to ADHC's Incident Management Policy (2007, amended 2010). The occurrence of incidents can provide valuable information about risks and the effectiveness of the strategies in place to manage them.

Risk management is everyone's responsibility, not just the responsibility of staff supporting the person's planning process. Risks will change over time with changes to a person's routines, support environments or events. There may be times when risk identification and management needs to occur before a formal review of a person's plan is due. For example:

- the person is indicating that the way others are supporting them to be safe or healthy is not working for them
- other people involved are not implementing actions that they agreed to
- the person is making decisions that others consider risky
- the person has made a choice or action that has endangered their own or other people's health or safety
- an important decision may need to be made
- there is an urgent or crisis situation that requires assessment and weighing of risk factors.

Positive and proactive strategies should be used to manage risk wherever possible. However it is recognised that reactive strategies may be required to manage unforseen, high risk situations where there is clear and immediate risk of self harm or harm to others.

How can we put this into practice?

- The use of any restrictive or intrusive interventions should be the minimum necessary in the circumstances and applied no longer than necessary to manage the crisis situation. Refer to ADHC's Behaviour Support Policy (2012) and supporting guidelines for detailed information.
- Proactively plan the use of any of these strategies wherever possible.
- Where a crisis situation occurs because of unforseen behaviour, support the person to access a behavioural assessment. Refer to ADHC's *Behaviour Support Policy (2012)* and supporting guidelines for detailed information.
- Involve the person with disability and their family/carers in the crisis planning process to enable them to make choices about how their crisis situation is managed.
- Ensure that the person and their family/carers have the opportunity to be involved in debriefing after the incident. This will enable everyone to reflect on what triggered the crisis, reflect on the strategies that were successful and not successful, and review the strategies to deal with similar situations in the future.
- Ensure support and advocacy is available to the person and their family.
- Sensitivity should be shown to the experience of people affected by any risks that have been taken and where an incident has occurred.

What person centred tools are available to support this?

- *Working/Not Working*
- *Important To/For*
- *Blue Sky Thinking tool*
- *'Happy/Safe' grid*
- *One page profile that includes situation, indicators or triggers and means of prevention/management*

3.2.10 How can we develop a culture of positive risk?

Positive risk-taking needs to be part of the culture that surrounds the provision of supports. This means there is a commitment to ongoing learning, and that staff take the time to reflect on their practice.

In particular, managers and supervisors have a key role in the successful application of ADHC's positive approach to risk. High quality supervision and support are essential. It provides staff with the opportunity to discuss concerns, develop and test ideas, and review the progress of strategies as they are implemented. It means responsibility is shared and staff are not exposed to managing high levels of risk without the authority and support to manage those risks effectively.

How can we put this into practice?

- Every region has a process for complex risk decision making in place which is supported by senior staff.
- Managers and supervisors recognise that there is joint accountability and ownership of risk decisions.
- Staff know support is available if things begin to go wrong, and how to access it.
- Managers and supervisors approach supervision in a way that is conducive to supporting staff in risk decisions.
- Risk management is part of all staff's ongoing work with people with disability and their family/carers.
- Wherever possible, the assessment and management of risk should be multi-disciplinary.
- There is emphasis on shared decision making that supports person centred frontline practice and improves staff confidence.
- Duty of care decisions are made in a shared and informed way, with transparent, shared responsibility.
- Risks need to be shared – no individual should take full responsibility.

4 Additional Tools & Resources

4.1 Decision making questions for risk planning

These questions have been included to guide your thinking about the type of information to consider when planning for risk. The questions are not meant to be used as a risk profile or tool, but to help you determine whether you have considered all the necessary aspects of planning and/or delivering support. Each person's situation is different and not all the questions will be relevant all of the time[4]:

- What is obvious?
- What are potential solutions?
- What information does the person (and/or others) need to assist them to understand what is involved in the decision, and its consequences?
- How do potential solutions measure up to what is:
    - important to the person?
    - considered best support?
    - considered success?
    - already working?
    - not working?
    - the least restrictive option?
- Who is important to the person?
- What do the people important to the person think about the solution/s?
- What will you try? Who will do what? By when?
- What does the person need to do?
- What do staff/the organisation need to change?
- What could family members/carers/others do?
- How can you ensure that the person has as much choice and control in this as possible?
- What is the likelihood of harm occurring, who might be harmed and how?
- What are your responsibilities as an ADHC staff member in the particular situation?
- What precautions can/will be taken?
- What can you do if things do not go to plan?
- How will the person be supported to take action to protect themselves in particular situations?
- What does good support mean in implementing the action plan?
- How will you record what you are learning as you go?

[4] These questions have been adapted from UK Department of Health (2007) and Neill et al (2008)

4.2 Person centred tools

The following person centred tools support person centred information gathering, assessment, planning and monitoring for risk management. The tools in italics are specifically suggested for use in person centred risk management in the current literature.

Information Gathering and Assessment

- All about me, my family & friends
- Needs Assessment: 'fear, danger and risk' section
- Family Assessment Project - Facilitation Tool
  - Skills section: Ability to Safeguard and Promote the Welfare of the Child
  - Assessment section: Parent Domain - Guidance & Boundaries
- *Relationship map*
- *Working/Not Working*
- *Important To/For*

Planning

- Families dream for the future
- ADHC person centred plan
- ADHC family centred plan
- ADHC lifestyle action plan
- *One page profile to person centred plan*
- *'Happy/Safe' grid*
- *Donut tool*
- *Blue Sky Thinking tool*
- *Decision Making Profile*
- *Decision Making Agreement*
- *4+1 Questions*

Monitoring and Review

- Families dream for the future
- All about me, my family & friends
- *Working/Not Working*
- *Important To/For*
- *4+1 Questions*
- *Reviewing Progress 4 + 2*

The tools above are all currently available on the ADHC intranet. They can also be sourced from:

- *Case Management Practice Guide: 7 Phases of Case Management (March 2010)* – Case Management Reforms, Community Access;
- *Lifestyle Planning Practice Guide* (March 2011) – Accommodation Policy & Development;
- *Person centred thinking tools* – Lifestyle Planning, Accommodation Policy & Development.
- *Helen Sanderson & Associates Tools for Person Centred Risk Planning*

5 References and resources

ACU Consortium, Van Dam, T., Ellis, J., & Sherwin, J. (2008). *Person centred planning: A review of the literature - September 2008*. Sydney, NSW: NSW Department of Ageing, Disability and Home Care.

Ageing Disability & Home Care, NSW Department of Family & Community Services (amended 2012) *Behaviour Support Policy*.

Ageing Disability & Home Care, NSW Department of Family & Community Services *Dignity of Risk and Duty of Care: Policy and Procedures (v1 1996, amended 2010)*

Ageing, Disability & Home Care, NSW Department of Family & Community Services (2007) *Interagency Protocol for Responding to Abuse of Older People.*

Ageing Disability & Home Care, NSW Department of Family & Community Services *Decision Making and Consent: Policy and Procedures (v 1.1 2008, amended 2010, 2012)* Accommodation Policy and Development Directorate

Ageing, Disability & Home Care, NSW Department of Family & Community Services (2009) *Case Management Practice Policy.*

Ageing, Disability & Home Care, NSW Department of Family & Community Services (2010) *Case Management Practice Guide.*

Ageing, Disability and Home Care, NSW Department of Family and Community Services, *Client Monitoring and Review System Fact Sheet*, August 2011

Ageing Disability & Home Care, NSW Department of Family & Community Services *Privacy Management Plan (v1.2 2011)* Law & Justice Directorate

Ageing, Disability & Home Care, NSW Department of Family & Community Services (2012) *Living Life My Way - Putting people with a disability at the centre of decision making about their supports in NSW.* Discussion paper, April 2012. Available from: http://www.adhc.nsw.gov.au/__data/assets/file/0003/255666/ADHC_PCA_Stage3_DiscussionPaper.pdf

Alaszewski, A. & Alaszewski, H. (2002) Toward the creative management of risk: perceptions, practices and policies. *British Journal of Learning Disabilities* **30** pp56-62 cited in Neill, M., Allen, J,. Woodhead, N., Reid, S., Irwin, L. & Sanderson, H. (2008) *A Positive Approach to Risk Requires Person Centred Thinking.*

Allen J, Neill M, Woodhead N, Reid S, Erwin L & Sanderson H (2008) *Person Centred Risk Course Book*, Stockport, HSA Press.

AGD - Attorney General's Department of NSW (2008) *Capacity Toolkit* ISBN: 978-1-921301-56-8

Ansello, E.F. and O'Neill, P. (2010) 'Abuse, neglect and exploitation: considerations in aging with lifelong disabilities', *Journal of Elder Abuse and Neglect*, vol 22, no 1, pp 105–30.

Bates, P. & Silberman, W. (2007) *Modelling Risk Management in Inclusive Settings* [online] London: National Development Team cited in Neill, M., Allen, J,. Woodhead, N., Reid, S., Irwin, L. & Sanderson, H. (2008) *A Positive Approach to Risk Requires Person Centred Thinking*.

Booth, T. & Booth, W. (1998) *Growing Up With Parents Who Have Learning Difficulties.* London: Routledge cited in Neill, M., Allen, J,. Woodhead, N., Reid, S., Irwin, L. & Sanderson, H. (2008) *A Positive Approach to Risk Requires Person Centred Thinking.*

Close, L. (2009) *Safeguarding and personalisation: Two sides of the same coin. Available from:* www.in-control.org.uk/DocumentDownload.axd?documentresourceid=961

Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* Social Care Institute for Excellence, United Kingdom. Available from: http://www.scie.org.uk [accessed 5/09/11]

Child Wellbeing and Child Protection NSW Interagency Guidelines (2009-11)

Community Justice Centres Ph: 1800 990 777 www.cjc.nsw.gov.au

Community Living British Columbia (2011). *Addressing Personal Vulnerability Through Planning: A guide to identifying and incorporating intentional safeguards when planning with adults with developmental disabilities and their families.* Available from: http://www.communitylivingbc.ca/wp-content/uploads/Addressing-Personal-Vulnerability-Through-Planning.pdf

DisabilitySafe National Disability Services, NSW (http://www.disabilitysafe.org.au)

DOH - Department of Health (May 2007) *Independence, Choice and Risk: a Guide to Supported Decision Making.* London: DH. Available at www.dh.gov.uk/publications

DOH - Department of Health (2008) *Moving forward: Using the learning from the Individual Budget Pilots*, London: DH. Cited in Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* Social Care Institute for Excellence, United Kingdom. Available from: http://www.scie.org.uk [accessed 5/09/11]

DOH - Department of Health (2009) *Safeguarding adults: A consultation on the review of the No secrets guidance*, London: DH.

Donohue, W.A., Dibble, J.L. and Schiamberg, L.B. (2008) 'A social capital approach to the prevention of elder mistreatment', *Journal of Elder Abuse and Neglect*, vol 20, no 1, pp 1–23.

DSC - Disability Services Commissioner (2012) *Safeguarding People's Right to be Free from Abuse*, Learning from Complaints Occasional Paper No.1. Available from: www.odsc.vic.gov.au

Guardianship Tribunal. Phone: (02) 9556 7600 Toll free: 1800 463 928 www.gt.nsw.gov.au

Julian, G. (2009) *Councillor's briefing: Safeguarding adults*, London: Association of Directors of Adult Social Services/Research in Practice for Adults/IDeA.

Kendrick M J (2010). Historical Contributors Towards Increasing Respect for the Voices of People with Disabilities in Western Societies. *International Journal of Disability, Community & Rehabilitation (IJDCR), Vol 9, No. 1*.

Kendrick MJ (2002). *Intentional Safeguards for Vulnerable People*. Retrieved from www.kendrickconsulting.org

Kendrick MJ (2005). *"Self Direction" in Services & The Emerging Safeguarding & Advocacy Challenges that May Arise, A Discussion Paper for an Exploratory Study Session*. Connecticut Office of Protection and Advocacy for Persons with Disabilities, Connecticut. Available from: www.kendrickconsulting.org

Knowing Each Other: Stories about informal safeguards told by BC families. Community Living British Columbia (2011). Available from: http://www.communitylivingbc.ca/wp-content/uploads/ThePowerofKnowingEachOther(web).pdf

Manthorpe, J. & Bowes, A. (2010) 'Age, ethnicity and equalities: synthesising policy and practice messages from two recent studies of elder abuse in the UK', *Social Policy and Society*, vol 9, no 2, pp 255–64 cited in Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* (p32) Social Care Institute for Excellence, United Kingdom.

Morgan, S. (2004). Positive risk-taking: an idea whose time has come. *Health Care Risk Report*, vol. 10 p18-19.

Murray, M. & Osborne, C. (2009) *Safeguarding Disabled Children: Practice guidance*; The Children's Society, United Kingdom. Available from: https://www.education.gov.uk [accessed 29/08/11].

Neill, M., Allen, J., Woodhead, N., Reid, S., Irwin, L. & Sanderson, H. (2008) *A Positive Approach to Risk Requires Person Centred Thinking* Available from: http://www.helensandersonassociates.co.uk [accessed 23/08/11].

O'Brien, D., Ford, L. and Malloy, J.M. (2005) 'Person centered funding: using vouchers and personal budgets to support recovery and employment for people with psychiatric disabilities', *Journal of Vocational Rehabilitation*, vol 23, no 2, pp 71–9 cited in Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* (p32) Social Care Institute for Excellence, United Kingdom.

Parsons, I. (1997) *Duty of care: who's responsible?* Geelong: Villimanta Publishing Service.

Power, M. (2004) *The Risk Management of Everything; Rethinking The Politics of Uncertainty*. London: Demos cited in Neill, M., Allen, J,. Woodhead, N., Reid, S., Irwin, L. & Sanderson, H. (2008) *A Positive Approach to Risk Requires Person Centred Thinking.*

Responding to Vulnerability: A discussion paper about safeguards and people with developmental disabilities. Community Living British Columbia (March 2011). Available from:

http://www.communitylivingbc.ca/wp-content/uploads/Responding-to-Vulnerability.pdf

Ryan, T. (2000) 'Exploring the risk management strategies of mental health service users', *Health, risk and society*, vol 2, no 3, pp 267–82 cited in Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* (p32) Social Care Institute for Excellence, United Kingdom.

Saleebey, D. (1999). The strengths perspective; principles and practices. (In Compton, B. R. & Galaway, B. 1999. *Social work processes*. 6th ed. Pacific Grove: Brooks/Cole p14-23)

Saleebey, D. (Ed.). (2002).*The strengths perspective in social work practice* (3rd ed.). New York: Longman.

SA MDAC - South Australian Minister's Disability Advisory Council (2011). *Inclusion& protection: A dynamic safeguarding schema for South Australians with disability who are also vulnerable to neglect and abuse.*, Adelaide, South Australia. Available at: http://www.sa.gov.au/upload/entity/1646/DS%20documents/ministers-disability-advisory-council/inclusion-and-protection-report-mdac.doc

Stalker, K. (2003) 'Managing risk and uncertainty in social work: a literature review', *Journal of Social Work*, vol 3, no 2, pp 211–33 cited in Carr, S. (2010) *Enabling risk, ensuring safety: Self-directed support and personal budgets* (p32) Social Care Institute for Excellence, UK.

Sykes, D. (2005) 'Risk and rights: The need to redress the imbalance', *Journal of Intellectual and Developmental Disability*, September 2005; 30(3): pp185-188.

Williams, C. (2010) *Adult safeguarding scrutiny guide*, London: Centre for Public

Scrutiny/IDeA. Available from http://www.idea.gov.uk/idk/aio/19170842 [accessed 23/08/11].

Wilson, B., Burns, S. and Brown, H. (2003) 'Links between the Public Guardianship Office and social services departments', *Journal of Adult Protection*, vol 5, no 2, pp 38–46.

6 Appendix - Legislation and policy base

The *Safeguarding Framework* is underpinned by the following Federal and NSW Government legislation:

Commonwealth Disability Discrimination Act (1992)

NSW Anti-Discrimination Act (1977)

NSW Carers (Recognition) Act (2010)

NSW Disability Services Act (1993)

NSW Disability Service Standards (1993)

NSW Occupational Health and Safety Act (2000) and the Regulations (2001)

NSW Children and Young Persons (Care and Protection) Act (1998)

NSW Guardianship Act (1987)

NSW Principles of Multiculturalism Act (2000)

Privacy and Personal Information Protection Act 1998

Other important systems, policies and documents guiding this framework are:

Case Management Practice Policy (ADHC 2009)

Case Management Practice Guide (ADHC 2010)

Client Monitoring and Review System (ADHC April 2011)

Consent and Decision Making: policy and procedures (ADHC 2008, amended 2010)

Charter of Public Service in a Culturally Diverse Society (1998)

Cultural Diversity Strategic Framework (ADHC 2010)

Dignity of Risk and Duty of Care Policy (ADHC 1996, amended 2010)

Disability Care and Support, Report no. 54 (Productivity Commission, Canberra 2011)

Enterprise Risk Management Policy (ADHC 2010)

Incident Management Policy (ADHC 2007, amended 2010)

Intake Policy (ADHC 2002)

Lifestyle Planning Policy (ADHC 2011)

Lifestyle Planning Practice Guide (ADHC 2011)

Living Life My Way - Putting people with a disability at the centre of decision making, Summit Report (ADHC August 2011)

National Disability Agreement (2009)

National Disability Insurance Scheme (NDIS)

National Disability Strategy (2010 - 2020)

National Disability Strategy NSW Implementation Plan 2012 - 2014

Occupation Health and Safety Policy (2010)

Stronger Together**:** A New Direction for Disability Services in NSW (2006-2016)

Stronger Together: The second phase 2011-2016

United Nations' Convention on the Rights of Persons with Disabilities (2006)