



ELHAP Decision Making Policy

Context

ELHAP (A Special Needs Adventure Playground) is determined to improve the life choices and quality of life of all adults to whom it provides support and services. It recognises that, for the majority of people, people make decisions affecting their lives on a daily basis. It is important that individuals are supported in making their own decisions and deciding for themselves how support and services should be organised to meet their needs. It is also crucial that those people lacking the capacity to make certain decisions for themselves receive adequate support when decisions are made in their best interests.

To this end, all services and support will be organised to allow individuals to direct their own support as soon as they are able and it is practicable for them to do so.

In all instances where issues of risk and choice are being discussed, it is imperative that accurate records are kept of these discussions, to ensure that processes have been properly followed and decisions recorded.

Informed choice

An informed choice means that a person has the information and support to think the choice through and to understand what the reasonably expected consequences may be of making that choice. It is also about experience – people need to have had the experience in order to make an informed decision. It is important to remember that too much information can be oppressive and individuals have differing needs in relation to how information is presented to them.

Enabling people to make informed choices does not mean ELHAP should abdicate its responsibility to ensure people have a good quality of life. For example if a person “chooses” to stay in bed all day, every day, ELHAP has a responsibility to explore what is happening and respond to this appropriately, working to ensure that the individual fully understands the consequences of their decision. It is not acceptable to simply accept such a decision at face value if this would put the individual at significant risk, as acts of omission can be considered to be abusive.

Communication

It is important to involve people in decisions even when they do not use speech as their main means of communication. It is also imperative that ELHAP ensures that the views of others who know and care about the person are invited and taken into account in any decision making process, without these taking precedence over the individual’s views and wishes. Where we are supporting people who have complex communication needs, person centred approaches are essential to ensure people’s involvement in decisions which affect their lives. *Please refer to the ELHAP Communication Policy for further details.*

Informed decision making

If the person has capacity and has been supported to consider the potential consequences, both positive and negative, arising from the proposed course of action and has decided to take the risk, then that is their informed decision.

Where an individual's informed choice may put them at risk of abuse or neglect by another person or persons, this potential should be discussed with them, and these discussions must be clearly recorded. If appropriate, action may need to be taken under the safeguarding adults procedures.

If the person lacks capacity, and a decision has put her / him at risk of abuse or neglect from a particular person or persons then a referral should be made for action to be taken under the safeguarding adults procedures. An example of this might be a person who has a learning disability who has previously been sexually abused by a relative and is currently living in supported housing who expresses a desire to live independently. If this were considered to put her at risk from her previous abuser, a multi disciplinary approach through safeguarding adult procedures would allow for a full discussion of and subsequent actions, to facilitate a move to independence. Such actions may include direct intervention with the previous abuser and or the provision of personal safety equipment, alarms and household security provision.

Please refer to the ELHAP Positive Risk Taking Policy for further details.

Decision Making Methods

1. All service users attend a 2 to 3 monthly choice making session with the ELHAP Day Service Project Worker to facilitate activity choices for the next 2 – 3 months.
2. Where service users choices may be not identified all staff and those close to the service user works collectively to help establish activities.
3. All service users regularly meet an independent advocate without staff or family or friends present. Service users regularly meet the advocate to discuss their choices, whether they feel listened to and to make changes to their plans.
4. Staff will receive regular support and advice from the local Speech and Language Therapy Team to help ensure choice making and communication is supported and developed. This is especially important for people with little or no verbal communication or who have complex communication needs.
5. Service users are not just encouraged but are actively supported to be in control of their own destiny and to shape the future of the service.
6. Staff will use a wide range of decision making methods and strategies, including intensive interaction, picture plans, pictorial timetables, feedback sheet etc.
7. New staff will 'shadow' more experienced staff in order to be inducted in the most successful ways of communication with each service user.

Capacity issues

Where capacity is in question, refer IN ALL CASES to the Mental Capacity Act 2005, Code of Practice, which states:

1. Every adult has the right to make their own decisions if they have the capacity to do so. **You must assume that a person has capacity unless it can be established otherwise.**
2. Individuals should receive support to help them make their own decisions and all possible steps should be taken to try to help him / her to reach a decision themselves.
3. Individuals have the right to make decisions that others might think are unwise. **Making an "unwise" decision does not mean that a person lacks capacity.**
4. A person's capacity must not be judged simply on the basis of their age, appearance, condition or an aspect of their behaviour.
5. It is important to take all possible steps to try to help people make a decision for themselves
6. Any act or decision should be the least restrictive in relation to its purpose.

Procedure to follow when a choice may pose a concern

1. Where an individual indicates a choice that you or others may consider to be a risk you should utilise your assessment skills to determine if there may be issues of capacity or safeguarding. If unsure, consult

with your line manager. Record the decision / outcome and the discussion on the file. If there may be a safeguarding issue, refer to the ELHAP Safeguarding Vulnerable Adults Policy and Procedure.

2. If there are thought to be Mental Capacity issues you, or a competent person, should complete an assessment of capacity.
3. If, having applied safeguarding procedures or capacity procedures, it is deemed that the person could not be supported in making their decision or choice, appropriate actions may need to be taken to protect the individual within Safeguarding Procedures or Mental Health legislation. However, a local authority has the power to refuse to fund a service which it believes, after a process of due discussion and exploration, would put the person at increased risk of harm.
4. If, having applied safeguarding procedures or capacity procedures, it is deemed that the person could be supported in making the decision or choice then they should be supported to do so.
5. Staff will ensure that each individual they work with is given the support to understand the issues of risk connected with their decision or choice, in a way that is appropriate and accessible to them.
6. Staff must be able to show that they have done this in a reasonable and proportional manner, having regard to the communication and understanding needs of the individual concerned.
7. Where ELHAP makes a decision not to support an individual to pursue a particular decision or course of action, they must be able to explain this and demonstrate that they have thought through and discussed in a balanced and proportional way the potential consequences of refusing to support the risk.
8. Health and Safety and risk assessment policies must not be used to prevent or inhibit an individual to think through the risks they want to take. Nor should these prevent or inhibit the person from having access to the support they need to take any reasonable risks they choose to take, following a supported decision making process.
9. A Risk Assessment conducted with individual or significant parties to the decision or choice may be one method of demonstrating levels of risk once the decision or choice is made.
10. Where the individual is able to make an informed choice and still wishes to pursue a high risk decision or choice, having a signed risk assessment is one way of showing that they are aware of the risks and are willing to take them. This provides ELHAP and its staff with a significant degree of protection for their support of the decision should things go wrong. However, if the risk agreed on is unreasonable in all the circumstances, then ELHAP may well be less protected. In principle, if ELHAP actively supports an obviously hazardous course of action, then it could be legally liable should things go wrong, if what it agreed is considered to be too risky and therefore constituted negligence.
11. A recording of risk does not necessarily indicate levels of understanding. Therefore, the work you have undertaken to ensure that the risk is understood must be recorded and shared with the service user. Any such records should be signed by the service user where possible.
12. Opting for a course of action simply because it carries least risk must not come before what is in the best interests of the individual concerned.

Independent Person Centred Advocacy/Evaluations

A critical part to ensuring the Day Service delivers meaningful decision making opportunities is person centred advocacy and evaluations. These are undertaken by an independent advocate without staff or family or friends present. Service users regularly meet the advocate to discuss their choices, whether they feel listened to, if they have any concerns but also to evaluate the person centred plans.

We believe that independent person centred advocate is a most powerful mechanism to ensuring that real decision making is delivered.

This policy works in conjunction with the following other policies:

- **Person Centred Support Policy**
- **Communication Policy**
- **Positive Risk Taking Policy**