Supporting choices through informed decision-making and collaboration

Formerly "Risk of Harm: Supporting choices through informed decision-making and collaboration in Long Term Care Homes."

Exclusions: *For medical procedures and medical decisions refer to Consent to Health Care Policy.*

For vulnerable adults who may/are unable to seek support and assistance, refer to Adult Protection: Abuse, Neglect, or Self-neglect of Vulnerable Adults Policy.
Persons who are self-harming and meet the criteria for certification under the Mental Health Act.

Site Applicability

- All VCH Community Services
- All VCH and PHC Long-term Care Homes

This guidance document is intended for people age 19 and over. If your matter concerns an individual under the age of 19, immediately consult with Risk Management

Practice Level

Basic skill for all care providers within their respective scopes of practice and job descriptions.

Requirements

1. After reading this document, care providers will use it to guide decisions and care planning when supporting people who pursue choices that may pose a Risk of Harm to themselves (harm to self) and/or others.
2. The organization (VCH/PHC) will support care providers to support a person's choices when the associated risks of harm and benefits have been considered, addressed and documented. A formal waiver or assumption of risk is not required.

Need to Know

Introduction

The term 'person' will be used to describe individuals connected to VCH community services or living in care homes, commonly referred to as resident, client or patient.
Everyone receiving care within VCH and PHC should have the opportunity to maintain autonomy over their life choices to enhance their quality of life provided there is not undue harm to others. Health care providers must work to support people in their choices and develop a care plan while not imposing their own personal or the team's values. Health care providers are expected to consider all

factors involved in the choice (see Ethical Decision-Making Framework) including benefits and risk of harm (Appendix A and Appendix B).

This guideline outlines the process for supporting choices when there is a perceived risk of harm to self and/or others. This guideline does not apply to vulnerable adults who may / are unable to seek support and assistance who meet criteria under the *Adult Guardianship Act,* or for people who are self-harming and/or posing harm to others and meet criteria for certification under the *Mental Health Act*. This guideline is supported by the VCH Harm Reduction Practice Policy.

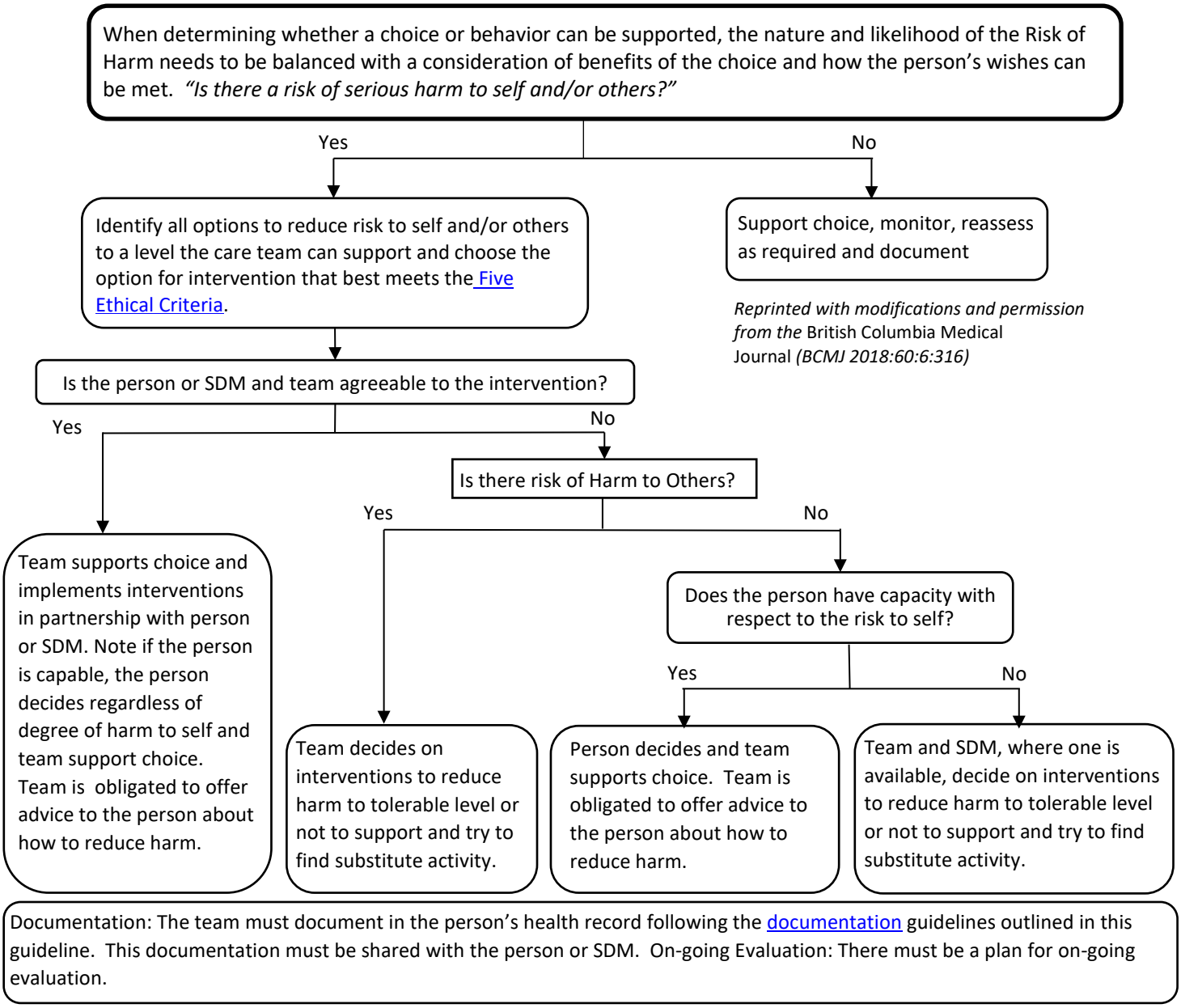
Principles to Aid Decision-Making:

A. People connected to community services or living in care homes have the same rights as the general public to make their own choices and should be provided with an equal opportunity to do so.
B. When a choice is under consideration, care should be taken to recognize the benefits that the person will derive from the activity as well as the risks of harm.
C. People's choices are the first consideration, that is, the starting point.
D. People who have the capability to understand the risks have the right to make their own informed decisions about choices that pose a risk of harm to themselves.
E. People, whether capable or not, **do not** have the right to make choices that put others at risk.
F. When a person is formally determined as 'incapable' of making decisions about a given risk, their Substitute Decision Maker (SDM) has an obligation to make decisions that reflect the person's choices, wishes, values and beliefs when they were capable, and if these are not known, decisions should be based on the person's best interests. Decisions should be made jointly with the care team and SDM, when appropriate, involving the person as much as possible.
G. All involved appropriate parties should have the information needed to come to an informed decision. Communication should be honest, open and transparent.
H. Health care providers have the responsibility to provide safe and ethical care in a way that honors the person or SDM's choice as much as possible, meets the Five Ethical Criteria and does not pose harm to others, when considering possible interventions.
I. Complex issues should not be addressed in isolation. Consult with Ethics, Professional Practice, Risk Management, ReAct Adult Protection Program and/or Aboriginal Health as appropriate. If there are concerns regarding abuse, neglect or self-neglect, and there is a concern that the adult may be unable to seek support and assistance, or substitute decision is of concern, report to a Designated Responder Coordinator (DRC). Legal may be consulted by one of the aforementioned parties as is appropriate.

Ethical Decision-Making Framework: Determining Appropriate Support or Interventions When Choices Pose a Risk of Harm to Self and/or Others

This Framework outlines the main features of the decision-making process for the team.

Depending on the circumstances of each case, the order of steps may be changed (e.g. determining person's capacity may occur earlier than suggested). However, all steps should be completed in order to come to a decision. If consensus is not reached after following the Framework discuss with leaders e.g. Team Lead, Manager or Director of Care (DOC), and consider need for Ethics, Professional Practice, Risk Management, and/or Designated Responder Coordinator consultation.



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Five Ethical Criteria That Must Be Met When Determining Which Options Appropriately Support the Choice and/or Mitigate Risks

1. The person and/or SDM is involved in discussion and development of the options
2. The options are effective
3. The options are least intrusive
4. The options themselves are not more harmful than the original risk
5. The options are non-discriminatory, i.e. are fair and equal when compared with the general public in a similar situation

Guideline

This guideline should be used to aid decision making and provide direction for documentation when supporting people connected to community services or living in care homes who choose to participate in potentially harmful choices. The guideline also provides a sound ethical and objective approach that meets the expectations of the organization.

It is important to understand the person in the context of their psychosocial history, environment, their strengths, their wishes, values and beliefs.

A team approach is fundamental throughout the process. Each person receiving care, SDM, interdisciplinary team member, family member, friend and/or advocate brings unique and valuable perspectives to the decision-making process. There may be circumstances where it is valuable for the team to discuss how the choices might impact risk to others prior to meeting with the person and/or SDM.

The more robust the decision-making process, the more defensible the decision.
Documentation of the process and outcomes needs to be robust, clear and shared with the person or SDM while upholding VCH/PHC privacy policy.

Steps

Depending on the circumstances of each case, the order of steps may be changed (e.g. determining person's capacity may occur earlier than suggested):

1. Identify risk and discuss with team, and the person or SDM. When needed, consider using Brief Action Planning structure to engage the person in the discussions.
2. Use the Ethical Decision-Making Framework. This outlines the main features of the decision-making process. Depending on the circumstances of each case, the order of steps may be changed (e.g. determining a person's capacity may occur earlier than suggested). However, all relevant steps should be completed ***before coming*** to a decision.
3. Perform risk or benefit assessment (Appendix A and Appendix B) and consider how choices can be supported.
    a. Determine the tolerability of the risk of harm by assessing both the benefits of the choice and the degree of severity of harm times the likelihood of risk of harm (Appendix A and Appendix B). Using objective data and reliable evidence consider the following:
        i. The nature of the possible harm, e.g. ask whether there are any effects on physical, emotional, psychological, spiritual or social well-being and comfort

ii. The degree or severity of harm, should it occur, would pose to the person and/or others
iii. The degree or severity of harm of NOT supporting the person's choice to self and/or others
iv. The benefits of supporting the person's choice. (Appendix B).

b. ***Where the risk of harm*** *is tolerable*, support the choice and implement a strategy for on-going monitoring and reassessment as required and document as per documentation section.
c. ***Where the risk of harm*** *is intolerable*, identify all options to reduce risk of harm to a tolerable level, with the aim of honouring the person's request. As a team, be creative and challenge the status quo by considering options that may not normally be expected. Choose options that reduce risk of harm to a tolerable level and best meet the Five Ethical Criteria.

4. Determine whether the person or SDM agrees with the interventions. If there is agreement, support choice and implement interventions. Implement a strategy for on-going monitoring and reassessment as required and document. If there is no agreement determine whether the harm is to others and/or self.
   a. ***Harm to Others.*** In circumstances where the person's choice causes intolerable risk of harm to others, the team has a responsibility to implement interventions to reduce risks of harm to a tolerable level. Action must be taken even if this means **not** allowing the person to pursue their choice. Implement appropriate interventions, set a review date, and monitor progress and document.
   b. ***Harm to Self.*** In circumstances where the harm is to "self" the person's capability needs to be taken into account. Consider whether the person can demonstrate the following:
      - An understanding of the nature and degree of risk of harm (Appendix A),
      - that their choices have consequences that affect themselves,
      - the ability to make and communicate choices and preferences and
      - that they are free from undue influence e.g., peer pressure, abuse, neglect or self-neglect.
5. **For people who are capable of** understanding the risk of self-harm related to their choice, the team supports the choice and are obligated to offer professional information about how the risks can be reduced.
6. **For people who are incapable of** understanding the risk of self-harm related to their choice, the team along with the SDM must decide on implementing interventions that reduce the risk to a tolerable level or to not support the choice and try to find a substitute tolerable activity.
7. Identify Health Care Provider responsible for implementing, monitoring and evaluating outcomes.
8. Document in person's health record following guidance Documentation section.
9. Share the documentation with the person or SDM while upholding VCH or PHC Privacy Policy. Record in the health record that a copy of the documentation was provided to the person or SDM.

Additional considerations:

- When a consensus is not reached after following the steps outlined, document the outcome following the guidance in Documentation and discuss all steps taken to aid decision making with the team lead, manager or DOC. Inform the person or SDM of the outcome of the discussion with team lead, manager or DOC and document. Consult with Ethics, Professional Practice, Risk Management, and/or Aboriginal Health as appropriate.
- Concern regarding abuse, neglect or self-neglect and there is a concern that the adult may be unable to seek support and assistance - report to a DRC.
- Concern about the person's capability - refer to an appropriate clinician, e.g. Nurse Practitioner, Occupational Therapist, Physician or Social Worker.
- Concerns about communication disorder (e.g. dysarthria, aphasia, apraxia, cognitive-communication disorder) – refer to a Speech Language Pathologist.
- Concerns about risk of an overdose, see Appendix D.

Documentation

Documentation of the decision-making process must be robust and clear and shared with the person or SDM while upholding VCH/PHC Privacy Policy. The form Appendix C may be used. Additional information should be documented in the progress notes or equivalent. Documentation should at minimum include the following:

- Date and time of discussions
- List of who was involved in decision-making process: all team members, person, SDM, family, friend, advocate, and any other providers or services consulted
- If concerns about a vulnerable adult who may be abused, neglected or self-neglecting, the clinician MUST NOT document the name of the reporter in the clinical chart. As per the *Adult Guardianship Act*, the reporter's identity must be protected against disclosure. Identifying information regarding reporters must only be stored in the ReAct Reporting System (RRS).
- All attempts to involve the person in the decision-making process.
- Nature of choice and associated risks of harm for the person and for others where applicable.
- Benefits of the choice (Appendix B)
- Recommended interventions for reducing risk of harm
- Confirmation of the person or SDM's understanding or agreement with risks and potential consequences of the decision and recommendations
- Education offered or provided
- Communication of the outcomes with interdisciplinary team
- Date for follow-up

Evaluation

1. People connected to community services and those living in care homes or SDMs report that they are supported to:
   a. make informed decisions about risk activities
   b. participate in activities of their choosing where risks are managed in a collaborative way.

2. Harm to others are mitigated, e.g. no reported harm to others identified in Patient Safety Learning System (PSLS) reports.

Related Documents

Adult Guardianship

- Adult Protection: Abuse, Neglect or Self-Neglect Vulnerable of Adults

Cognitive Assessment:

- Cognitive Evaluation and Intervention Guideline for the Adult Population
- Cognitive Evaluation Decision Support Tool – *in development*

Cultural Competency and Harm Reduction:

VCH

- Harm Reduction Practice
- Indigenous Cultural Safety

PHC

- Cultural Competency
- Philosophy of Care for First Nations, Inuit and Métis People
- Philosophy of Care for Patients and Residents who use Substances at Providence Health Care

Family Involvement

- VCH Family Involvement with Mental Health and Addiction Services

Trauma Informed Practice

- VCH Trauma Informed Practice

Resources

- A Guide to the Certificate of Incapability process Under Adult Guardianship Act
- Brief Action Planning (online Education). Centre for Collaboration, Motivation and Innovation
- Capability and Consent Tool BC Edition
- Ethics Orientation on-line and classroom based workshops (Learning Hub)
- Ethics Orientation Workshop: Ethical Decision Making in Clinical Practice (classroom based workshop) – VCH - Learning Hub
- Health Care Providers' Guide to Consent to Health Care
- Public Guardian and Trustee of BC
- Risk Mitigation in the Context of Dual Public Health Emergencies
- Serious Illness Conversation Guide
- VCH Ethics service

Person and Family Centered Resources

- Consent to Health Care: Information for Adults, Families, and Health Care Providers
- Difficult Decisions. How Ethics Services Can Help You (PHC and VCH)

- Ethics Services (PHC)
- Ethics Services (VCH)
- Family Communication Guide (available in multiple languages)
- Making Decisions About Life and Care: Long-Term Care (available in multiple languages)
- What Matters Most to Me Worksheet (available in multiple language)

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Definitions

Autonomy: The capacity to self-determine one's own decisions or actions based on their values, wishes, and belief system.

Best Interests: "Acting so as to promote maximally the good of the individual" (Buchanan and Brock, 1990).

The Health Care (Consent) and Care Facilities (Admission) Act, sections 19(3) and 23(3) outline what the substitute decision maker must consider in deciding whether it is in the adult's best interests (maximally what is the "good" for an individual) to give, refuse or revoke substitute consent for health care decisions. This may also be used as a guide when determining what is in the individual's best interest for decisions about activities that pose a risk of harm, e.g. consider the following:

a) the adult's current wishes, and known beliefs and values,
b) whether the adult's condition or well-being is likely to be improved by the proposed choice,
c) whether the adult's condition or well-being is likely to improve without the proposed choice,
d) whether the benefit the adult is expected to obtain from the proposed choice is greater than the risk of harm, and
e) whether a less restrictive or less intrusive approach that would be as beneficial as the proposed choice

Care Homes: Long-term Care Homes.

Community Services any VCH community program, site, or service that supports people outside of an acute care setting.

Designated Responder Coordinator: The term used for an identified staff person within a Designated Agency who has responsibility to receive and investigate reports of suspected abuse, neglect and self-neglect of vulnerable adults.

Family or **Family Member**: an individual who has been identified by the person or SDM or their team as being in a relationship of importance to the person and who provides support or care for the person on a regular basis.

Risk of Harm: Is a product of the degree or severity of harm times the likelihood of harm arising from a choice.

Substitute Decision Maker (SDM): In British Columbia there are the following types of SDMs and they are listed below in the order of hierarchy:

- **Committee of Person (*Patients Property Act*):** If there is a court ordered Committee of Person for the person, the Committee has the authority to make decisions regarding risk choices for the person.

- **Representative** (***Representation Agreement Act***)**:** If there is a Representative appointed by the person by way of a Representation Agreement, the Representative may have authority depending on the provisions in the agreement.

- **Temporary Substitute Decision Maker ("TSDM") and Substitute for Facility Admissions ("Substitute") (*Health Care (Consent) and Care Facilities (Admission) Act)* (HCCCFAA):** TSDMs for health care and Substitutes for care facility admission decisions are determined through the HCCCFAA.

- Note: Power of Attorney *(**Power of Attorney Act**)* and Committee of Estate (***Patients Property Act***): Powers of Attorney and Committee of Estates pertain only to financial matters.

If there is neither a Committee of Person nor a Representative, a substitute decision maker (SDM) makes decisions. The SDM for risk choices is distinct from a TSDM for health care decisions and from a Substitute for care facility admissions. The SDM for risk choices may or may not be the same individual

as the TSDM or Substitute, as there is no legislation that stipulates the procedure for appointing an SDM for risk choices. While it is likely that the SDM for risk choices would be the same as the TSDM or Substitute, the health care team must make this determination. There is a generally accepted common law principle that care teams have, at minimum, a requirement to consult with friends or family members if there is no legally appointed representative or committee that can make decisions, and the decision to be made falls outside the bounds of the HCCCFAA. In such circumstances, the care team may wish to consider the individual named as a Power of Attorney or Committee of Estate as their appointment is likely reflective of the wishes of the adult.

Team: the interdisciplinary team and medical staff providing care to the Person.

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Approved By: *(committee or position)*	PHC	VCH
	Endorsed By: PHC Professional Practice Standards Committee	**Endorsed By:** (Regional SharePoint 2nd Reading) Health Authority Profession Specific Advisory Council Chairs (HAPSAC) Health Authority and Area Specific Interprofessional Advisory Council Chairs (HAIAC) Operations Directors Professional Practice Directors **Final Sign Off:** Vice President, Professional Practice and Chief Clinical Information Officer, VCH
Owners: *(optional)*	PHC	VCH
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		Revised Team Members: • Clinical Practice Lead, Interdisciplinary Long-Term Care Practice Team, VCH • Ethicist, VCH • Professional Practice Lead, VC Nursing, Professional Practice • Legal Counsel, Regulatory and Health Law • Director, ReAct Adult Protection

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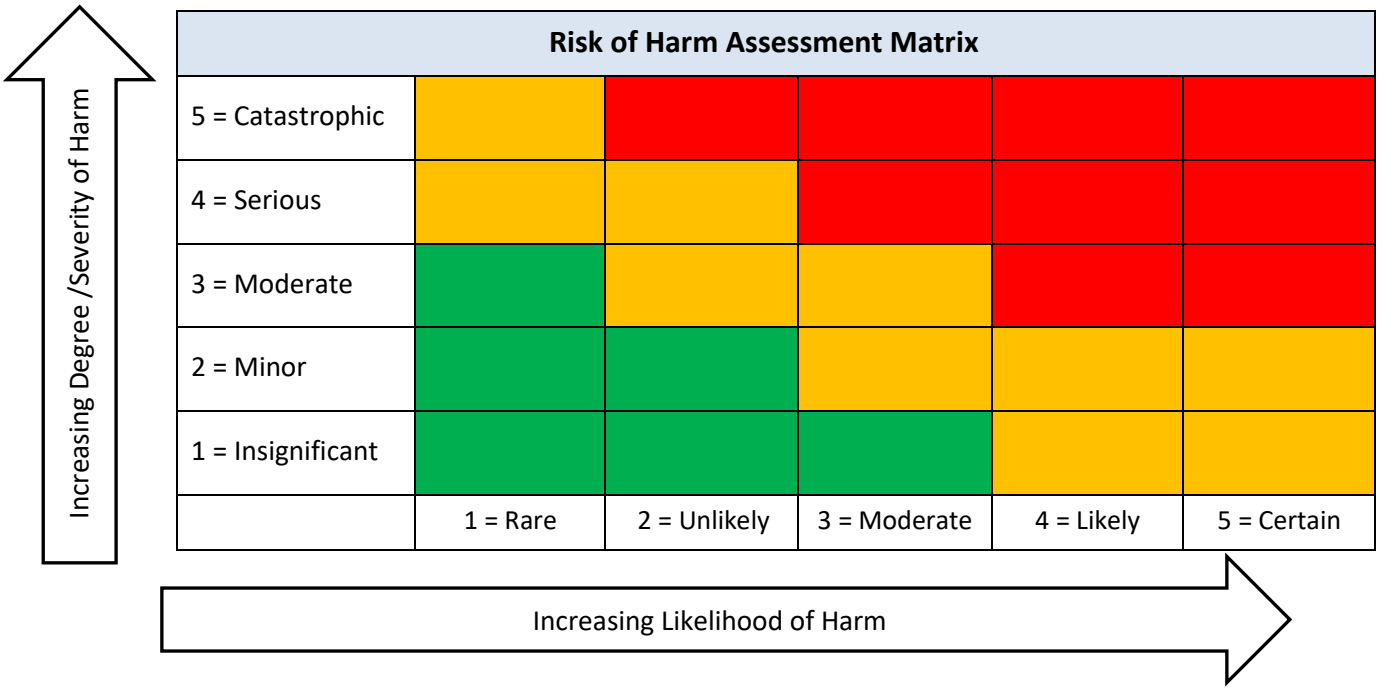
Appendix A: Risk of Harm Assessment Guide

Risk of Harm: Is the product of the Degree or Severity of harm multiplied by the likelihood of harm occurring from a choice.

Use this matrix to assess likelihood of harm and the consequences or severity of harm to the person, other community members, other people living in or visiting a care home, staff and the organization. This will aid discussion and facilitate evaluation of risk-mitigating intervention.



Stop and Think - consider what can be done now as an alternative that would meet the person's immediate needs and follow guideline to develop plan

Proceed with caution - consider alternatives that meet needs and follow guideline to develop a plan

Risk of harm is tolerable, however consider harm to others and whether the person is capable -see guideline

Key: Consequence and Severity of Harm

1 = Insignificant
2 = Minor
3 = Moderate – temporary disability or harm, manageable loss or property damage
4 = Serious – significant disability or harm, significant property loss or damage
5 = Catastrophic – death, major disability or harm, major property loss or damage

Appendix B: Benefit or Risk Worksheet

Complete this worksheet with the person or SDM. Use reverse as guide for asking questions to explore person's wishes, strengths and options (See Appendix D for tips)**.**

Using the Risk Assessment Matrix in Appendix A, what is the Likelihood and the Degree of Severity of harm? Likelihood _____Severity/Consequence_____

I value this choice	The benefits I get from this choice are:	The risks to me when I engage in this choice are or can be:	How I can enhance my quality of life (strengths)	How I will manage the risk / set up for success

Appendix C: Supporting Choices Documentation

Supporting Choices Meeting Documentation Form Date and time	
Present:	
Nature of choice and associated benefits and risks	Describe choice: Benefits (List) or complete Appendix A Benefit or Risk Worksheet Degree of Risk Risk of harm to Self Yes ☐ No ☐ Maybe ☐ Risk of harm to Others Yes ☐ No ☐ Maybe ☐
List agreed interventions and education recommendations that meet the Five Ethical Criteria.	
Person or SDM understanding	Understands: Risks Yes ☐ No ☐ Interventions Yes ☐ No ☐ Education recommendations Yes ☐ No ☐
Date for follow-up or evaluation of plan	
Health Care Provider responsible for communicating to team, implementing and monitoring outcomes	Name Designation
Copy provided to Person or SDM	Yes ☐ No ☐

Completed By _____Designation_____

Signature _____ Date_____

Appendix D: Supporting Choices for People at Risk of an Overdose

There may be people connected to community services or living in care homes who are at risk of an overdose, including those who are trying to abstain from substance use. For a person at risk of relapse, stress is thought to be a significant risk factor for relapse to substance use. Engage the person in conversations to help to identify sources of stress. Support the person to generate ideas around how to reduce their level of stress to mitigate risk, and facilitate access to resources.

Below are interventions that may be appropriate for a person who may have a risk of overdose.

- Provide education on:
    - Tolerance and the heightened risk of overdose after periods of abstinence
    - The heightened risk of overdose when using opioids in combination with stimulants
    - Harm reduction interventions e.g. using with others, safer injection practices, syringe distribution
    - How to use a Take Home Naloxone kit. Dispense, or refer to resources where client can obtain a kit.
- Develop a safety plan.
- Engage in opioid agonist treatment to optimize safety and stability.
- Re-initiation of opioid agonist treatment if relapse risk emerges.
- Encourage the person to engage with the team, including collaborating with their support network and reducing barriers (i.e. transportation, supporting with mobility challenges).
- Use phone, email, text, or other organizationally approved electronic platforms to support the person and their family.
- Increase frequency of contact while respecting autonomy, including outreach visits.
- Provide information about community supports, peer-based, outpatient and residential treatment, for those who are seeking or interested.
- Where appropriate, connect with housing provider to contact person if there is pre-established consent.
- Where appropriate, refer to the Overdose Outreach Team.
- Provide information on supervised consumption sites and overdose prevention sites.
- Encourage the person to test their drugs at designated drug testing sites.