



**safeguarding
adults at risk**
a cumbria partnership

Self Neglect Procedure

Contents

1. Introduction
2. Self-neglect
3. Practice Guidance
4. Mental Capacity
5. Appendix Supporting legislation

I. Introduction and Scope

This document sets out guidance for safeguarding adult's practice where concerns of self-neglect have been raised. Self-neglect can be a complex area for intervention as issues of capacity and lifestyle choice are often involved which includes individual judgements about what is an acceptable way of living and degree of risks to self. Even in cases where it appears the risk to the individual may be significant, there may be no clear legal grounds to intervene. Many decisions will hinge on whether the person concerned has the capacity to make an informed choice about how they are living and the risks to which they are exposed. Assessing capacity for an individual who is resistant to or suspicious of outside intervention can be a complex task. However, the risks to individuals can be high, with some cases of self-neglect leading to the person's death.

Learning from Safeguarding Adult Reviews

Self-neglect has featured in a significant proportion of Safeguarding Adult Reviews completed across the country following the death of an adult with care and support needs. These re-views illustrate the complexity of practice with adults who self-neglect. A summary of common findings are pertinent to consider:

- The importance of early information sharing, in relation to previous or ongoing concerns.
- The importance of face to face interviews.
- The need for clear interface with safeguarding adult's procedures.
- The importance of effective collaboration between agencies.
- Increased understanding of the legislative options available to intervene to safeguarding a person who is self-neglecting.
- The importance of the application and understanding of the Mental Capacity Act (2005).
- Where an individual refuses services, it is important to consider mental capacity and ensure the individual understands the implications and that this is documented. Services and support should be revisited at regular intervals: it may take time for an individual to accept any support.
- The need for practitioners and managers to challenge and reflect upon the cases through the supervision process and training.
- The need for robust guidance to assist practitioners in working in this potentially complex area.
- Assessment processes need to identify who carers are, and how much care and support they are providing.

2. Self-Neglect

Gibbons et al (2006) defined it as 'the inability (intentionally or unintentionally) to maintain a socially and culturally acceptable standard of self-care with the potential for serious consequence to the health and well-being of those who self-neglect and perhaps too to their community.'

A review of literature suggests the following definitions:

- Persistent inattention to personal hygiene, nutrition, hydration, health and / or environment
- Repeated refusal of some /all indicated services which can reasonably be expected to alleviate associated risks and improve quality of life
- Self-endangerment through the manifestation of unsafe behaviours
- Indicators of self-neglect may include:
- Behaviours/lifestyles such as hoarding or anti-social behaviour causing social isolation. This can impact on the living environment causing health and safety concerns.
- Neglecting household maintenance, and therefore creating hazards within and surrounding the property.
- Poor diet and nutrition, evidenced for example by little or no fresh food, or what there is being mouldy or unfit for consumption.
- Refusing to allow access to health and / or social care staff in relation to personal hygiene or care.
- Personal or domestic hygiene that exacerbates a medical condition that could lead to a serious health problem.
- The person refuses to consent to treatment, medications, the use of equipment or interventions for a health or medical condition which could compromise and significantly impact on their health and well-being.
- There are signs of serious self-neglect that are regularly reported by the public or other agencies, but no change in circumstances occur.
- The person is either unwilling or refuses to attend external appointments with professional staff, whether social care, health or other organisations (such as housing).
- The person refuses to allow access to other organisations with an interest in the property, for example; staff working for utility companies (gas, electrics and water).
- The abode they are living in becomes filthy and verminous causing a health risk or possible eviction.
- The conditions of the property cause potential risk to people providing support or services.
- There could be other wide ranging situations not listed above or a situation could include one or a combination of the above.

The above is not an exhaustive list.

3. Guidance - Self neglect and Safeguarding Adults

The Care Act which came into force on 1 April 2015, sets out the Local Authority's responsibility for protecting adults with care and support needs from abuse or neglect under primary legislation. The ability of the individual to protect themselves by controlling their behaviour will be a major influence on the pathway for intervention. There may be a point where the individual is unable to do this without external support.

It is important that we remain mindful of the directions under Section 42 of the Act; 'Enquiry by the local authority:

1. This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinary resident) – (a) has care and support (whether or not the local authority is meeting any of those needs), (b) is experiencing, or is at risk of abuse or neglect, and (c) as a result of those needs is unable to protect himself or herself against abuse or neglect or risk of it.
2. The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom.'

Responding to self-neglect **must** be proportional to the context in which the concern has been raised, and it must equally reflect the promoting well-being principle as defined in Part 1 of the Care Act.

Prevention

In the majority of cases, early intervention and preventive measures will negate the need for a statutory safeguarding section 42 inquiries to be implemented. The Care Act emphasises the importance of utilising the support networks available within the local community. These networks may be family and friends, statutory and or non-statutory agencies already known. It is important to consider all possible interventions and work with the individual over time in order that the individual can make decisions for themselves as much as they can. If they are unable to then the Mental Capacity Act 2005 provides the framework for the intervention.

4. Mental Capacity

The Mental Capacity Act (2005) only applies where the individual concerned suffers from impairment in the functioning of the brain or mind. There must, therefore, be an established condition which is causing the person to be unable to make their own decision.

The 5 principles of the act state that a person is assumed to have mental capacity unless there is a reason to believe otherwise, persons should not be deemed to lack mental capacity just because they make an 'eccentric or unwise decision'. Individuals must also be supported, as far as possible, to make their own decisions before they can be assessed as lacking capacity, any decision made on their behalf must be in their best interest, and finally any intervention must be the least restrictive,

It is useful to consider the principles chronologically: principles 1 to 3 will support the process before or at the point of determining whether someone lacks capacity. Once you've decided that capacity is lacking, use principles 4 and 5 to support the decision-making process.

Assessment of mental capacity should consider whether there are any concerns about possible duress and whether the individual is being influenced or exploited by others who may not have their best interests at heart. Where the individual has mental capacity but is not able to exercise choice as a result of duress or exploitation, legal advice should be sought regarding an inherent jurisdiction application to the High Court.

Mental capacity assessments are both time and decision specific and should therefore be considered and / or repeated as risk increases and in relation to each individual risk.

Where there is disagreement as to an individual's capacity, discussions should take place between the relevant professionals to see if agreement can be reached. A joint visit may prove helpful in this regard. However, ultimately it is the best interest's decision-maker who must take a view as to the individual's capacity. Should disagreement persist, legal advice should be sought as to whether an application to the Court of Protection is necessary.

Once a person has been assessed as lacking capacity to make the relevant decision that decision can be made on their behalf in their best interests. There is a specific process which must be followed for best interest's decisions which includes consultation with the individual and their support network, and consideration of these views. Decisions made under best interests must be recorded as such, with details of the consultation that took place and the reasons for the decision.

The best interest's provisions under the Mental Capacity Act 2005 allow some decisions and actions to be taken on the individual's behalf, without the need for further authority. However, they do not extend to measures which will impact on the person's human rights, for example:

- Removing the person from their property against their will
- Depriving someone of their liberty whilst in temporary accommodation
- Any other measures which are likely to cause significant distress to the individual

In such situations, a Court of Protection application may be necessary and legal advice should be sought.

Advocacy

Advocacy support in safeguarding activity is provided for by two lines of enquiry/support: The first being Care Act Advocacy - This is the statutory role to provide support to enable the client through the safeguarding enquiry.

The second is the role of the Independent Mental Capacity Advocate (IMCA) – This is a statutory function to support individuals who are unable to make certain specific decisions for themselves, and who have no family or friends who are appropriate to consult on these decisions.

Making Safeguarding Personal

The core principle of ensuring the voice of the individual is central to the response by agencies is vital when responding to self-neglect concerns. Without listening to the individual's wishes and needs, agencies will be unable to support and empower people to resolve circumstances that put them at risk. The focus has to be on the best outcome for the individual themselves and as such all process must be person centred. This means ensuring the individual is involved in any process from the beginning. The principles of making safeguarding personal are pivotal when undertaking to address concerns of self-neglect.

The scope of this policy does not include

Issues of risk associated with deliberate self-harm, which may require assessment under the Mental Health Act (1983). Where there are concerns that any relevant agency has closed their involvement prematurely, or is not proactively engaging with multi-agency plans to address the concerns and risks for the individual, this should be escalated through the relevant process for that agency.

Acknowledgement to

Braye, S., Orr, D. and Preston-Shoot, M. (2011) Self-neglect and adult safeguarding: Findings from research, London: Social Care Institute for Excellence.

5. Appendix: Supporting Legislation

Mental Capacity Act 2005

Five Key Principles to determine Mental Capacity

Principle 1:

A presumption of capacity – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

Principle 2:

Individuals being supported to make their own decisions – a person must be given all practicable help before anyone treats them as not being able to make their own decisions. This means you should make every effort to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that you involve the person as far as possible in making decisions.

Principle 3:

Unwise decisions – people have the right to make decisions that others might regard as unwise or eccentric. You cannot treat someone as lacking capacity for this reason. Everyone has their own values, beliefs and preferences which may not be the same as those of other people.

Principle 4:

Best interests – anything done for or on behalf of a person who lacks mental capacity must be done in their best interests.

Principle 5:

Less restrictive option – someone making a decision or acting on behalf of a person who lacks capacity must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms of action, or whether there is a need to decide or act at all. Any intervention should be weighed up in the particular circumstances of the case.

Public Health Act 1936

The Public Health Acts 1936 and 1961 contain the principal powers to deal with filthy and verminous premises.

PHA 1936 Section 83 Cleansing of Filthy or Verminous Premises

Where a local authority, upon consideration of a report from any of their officers, or other information in their possession, are satisfied that any premises:

- a) Are in such a filthy or unwholesome condition as to be prejudicial to health, or
- b) Are verminous

The local authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises.

The steps which are required to be taken must be specified in the notice and may include:

- Cleansing and disinfecting
- Destruction or removal of vermin
- Removal of wallpaper and wall coverings
- Interior of premises to be painted, distempered or whitewashed.

There is no appeal against a Section 83 notice and Local Authority has the power to carry out works in default and recover costs. The Local Authority also has the power to prosecute for noncompliance.

Section 84 Cleansing or Destruction of Filthy or Verminous Articles

A local authority can apply on the certificate of a proper officer of the Local Authority for the cleansing, purification or destruction of articles necessary in order to prevent injury, or danger of injury, to health.

Section 85 Cleansing of Verminous Persons and Their Clothing

On the application of any person or officer of a local authority, a local authority can take necessary measures to free a person and his clothing from vermin including removal to a cleansing station. A court order can be applied for where the person refuses to comply. If the person is female, the cleansing must be by a GP or by a woman authorized by the proper officer of the Local Authority.

The Local Authority cannot charge for cleansing a verminous person and may provide a cleansing station under Section 86 of the Public Health Act 1936.

Bylaws for the prevention of certain nuisances

The Public Health Act 1936 S81 also gives Local Authority's power to make bylaws to prevent the occurrence of nuisances from filth, snow, dust, ashes and rubbish or the keeping of animals so as to prejudice health.

The Public Health Act 1961

The Public Health Act 1961 amended the 1936 Act and introduced:

Section 34 Accumulations of Rubbish

This gives a local authority power to remove accumulations of rubbish on land in the open air.
Section 36 Power to Require Vacation of Premises During Fumigation: -

Makes provision for the Local Authority to serve notice requiring the vacation of verminous premises and adjoining premises for the purposes of fumigation to destroy vermin. Temporary accommodation free of charge must be provided and there is the right of appeal.

Section 37 Prohibition of Sale of Verminous Articles:

Provides for household articles to be disinfested or destroyed at the expense of the dealer (owner).

Housing Act 2004

Allows Local Authority (Local Authority) to carry out risk assessment of any residential premises to identify any hazards that would likely cause harm and to take enforcement action where necessary to reduce the risk to harm. If the hazard is a category 1 there is a duty by the Local Authority to take action. If the hazard is a category 2 then there is a power to take action. However an appeal is possible to the Residential Property Tribunal within 21 days. A local authority can prosecute for non-compliance.

Building Act 1984 Section 76 (defective premises)

This Act is available to deal with any premises which are in such a state as to be prejudicial to health or a nuisance (defective premises). If there is unreasonable delay in repairing, the Local Authority may serve notice and undertake works after 9 days and recover expenses, unless the owner or occupier states intention to undertake the works within 7 days. There is no right of appeal and no penalty for non-compliance.

There is further legislation that relates specifically to people – both the living and the deceased e.g. Public Health (Control of Disease) Act 1984.

Environment Protection Act 1990 Section 79 (statutory nuisance)

This refers to statutory nuisance at any premises in such a state or smoke, fumes, dust as to be prejudicial to health or a nuisance. Action is by Section 80 abatement notice; the recipient has 21 days to appeal.

Prevention of Damage by Pests Act 1949

Local Authorities have a duty to secure its district is free from rats and mice and to take action against occupiers of premises where there is evidence of rats or mice.

Public Health (Control of Disease) Act 1984 Section 46

Imposes a duty on Local Authority to bury or cremate the body of any person found dead in their area in any case where it appears that no suitable arrangements for the disposal of the body have been made. Costs may be reclaimed from the estate or any person liable to maintain the deceased.

The Act also sets out restrictions in order to control the spread of disease, including use of infected premises, articles and actions that can be taken regarding infectious persons.

Mental Health Act 1983

Compulsory admission to hospital or guardianship for patients not involved in criminal proceedings (Part II).

Section 2 - Admission for Assessment

Duration of detention: 28 days maximum

Application for admission: by Approved Mental Health Professional or nearest relative. Applicant must have seen patient within the previous 14 days.

Procedure: two doctors (one of whom must be section 12 approved) must confirm that:

- a) the patient is suffering from a mental disorder of a nature or degree which warrants detention in hospital for assessment (or assessment followed by medical treatment) for at least a limited period; and
- b) S/he ought to be detained in the interests of his/her own health or safety or with a view to the protection of others.

Discharge: by any of the following:

- Responsible Medical Officer
- Hospital Managers
- Nearest relative who must give 72 hours' notice. The Responsible Medical Officer can prevent the relative from discharging the patient by making a report to the Hospital Manager.
- Mental Health Review Tribunal. The patient can apply to a tribunal within the first 14 days of detention.

Section 3 – Admission for Treatment

Duration of detention: six months, renewable for a further six months, then for one year at a time

Application for admission: by nearest relative or Approved Mental Health

Professional in cases where the nearest relative consents, or is displaced by County Court, or it is not 'reasonably practicable' to consult him

Procedure: two doctors must confirm that:

- a) the patient is suffering from a mental disorder of a nature or degree which makes it appropriate for him/her to receive medical treatment in hospital; and
- b) it is necessary for his/her own health or safety or for the protection of others that he/she receives such treatment and it cannot be provided unless s/he is detained under this section; and
- c) appropriate treatment is available to him/her

Renewal: under section 20, Responsible Medical Officer can renew a section 3 detention order if original criteria still apply and treatment is likely to 'alleviate or prevent a deterioration' of patient's condition.

In cases where patient is suffering from mental illness or severe mental impairment but treatment is not likely to alleviate or prevent a deterioration of his/her condition, detention may still be renewed if s/he is unlikely to be able to care for him/herself, to obtain the care s/he needs or to guard himself against serious exploitation

Discharge: by any of the following

- Responsible Medical Officer
- Hospital Managers
- Nearest relative who must give 72 hours' notice. If the Medical Officer prevents the nearest relative discharging the patient by making a report to the Hospital Manager, the nearest relative can apply to a Mental Health Review Tribunal within 28 days.
- Mental Health Review Tribunal. The patient can apply to a tribunal once during the first six months of his/her detention, once during the second six months and then once during each period of one year.

Section 7 Guardianship

A guardianship application may be made in respect of a patient on the grounds that:

- a) S/he is suffering from mental disorder, of a nature or degree which warrants his reception into guardianship
- b) It is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should be so received.

Application can be made by an AMHP or the nearest relative with written recommendations from 2 medical practitioners. If the nearest relative objects it may be appropriate to displace (Sec 29). The guardian may be the local authority. The purpose of guardianship is to enable the patient to receive care outside hospital when it cannot be provided without the use of compulsory powers. It provides 'an authoritative framework for working with a patient with a minimum of constraint to achieve as independent a life as possible within the community and must be part of the patients overall care and treatment plan'.

Section 135 Warrant to search for and remove patients

If there is reasonable cause to suspect that a person believed to be suffering from a mental disorder has been, or is being ill-treated, neglected or kept otherwise than under proper control or is unable to care for himself and is living alone, an AMHP can apply to a Magistrates Court for a warrant authorising a police constable to enter the premises, if need be by force and remove the patient to a place of safety for up to 72 hours, with a view to making an application under Part II of the MHA 1983.

Powers of Entry

An authorized officer of a local authority may have a right of entry to premises in order to fulfil their role and duties. The powers; whether an application for permission to enter has to be made; whether notice has to be given and the limits on the power will vary with the individual Act and should be checked carefully.

Human Rights Act 1998

Public authorities must act in accordance with the Convention of Human Rights, which has been enacted directly in the UK by the Human Rights Act 1998 and therefore can be enforced in any proceedings in any court.

Article 5 – Right to Liberty and Security.

Everyone has the right to liberty and security of persons.

Article 8 – Right to Respect for Private and Family Life

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as permitted by the law, is for a lawful purpose e.g. is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country; for the prevention of disorder or crime; for the protection of health or morals, or the protection of the rights and freedoms of others and is proportionate.

The First Protocol Article 1 – Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Anti-Social Behaviour 2003 (as amended)

Anti-social behaviour is defined as persistent conduct which causes or is likely to cause alarm, distress or harassment or an act or situation which is, or has the potential to be, detrimental to the quality of life of a resident or visitor to the area.

Questions about whether an application for an Anti-Social Behaviour Order would be appropriate should be made to the Designated Police Officer (it may be appropriate to involve the police in the multi-agency work), the Registered Social Landlord or the Local Authority.

Misuse of Drugs Act 1971

Section 8 (this creates an offence if the occupier of premises permits certain acts to take place on the premises).

'A person commits an offence if, being the occupier or concerned in the management of the premises, he knowingly permits or suffers any of the following activities to take place on those premises...'

s8 (a) Producing or attempting to produce a controlled drug...'

s8 (b) Supplying or attempting to supply a controlled drug to anotheror offering to supply a controlled drug to another....' s8 (c) Preparing opium for smoking s8 (d) Smoking cannabis, cannabis resin or prepared opium'

Powers of Entry

The following legal powers may be relevant, depending on the circumstances:

- **If the person has been assessed as lacking mental capacity in relation to a matter relating to their welfare:** the Court of Protection has the power to make an order under Section 16(2) of the MCA relating to a person's welfare, which makes the decision on that person's behalf to allow access to an adult lacking capacity. The Court can also appoint a deputy to make welfare decisions for that person.
- **If an adult with mental capacity, at risk of abuse or neglect, is impeded from exercising that capacity freely:** the inherent jurisdiction of the High Court enables the Court to make an order (which could relate to gaining access to an adult) or any remedy which the Court considers appropriate (for example, to facilitate the taking of a decision by an adult with mental capacity free from undue influence, duress or coercion) in any circumstances not governed by specific legislation or rules.
- **If there is any concern about a mentally disordered person:** Section 115 of the MHA provides the power for an approved mental health professional (approved by a local authority under the MHA) to enter and inspect any premises (other than a hospital) in which a person with a mental disorder is living, on production of proper authenticated identification, if the professional has reasonable cause to believe that the person is not receiving proper care.
- **If a person is believed to have a mental disorder, and there is suspected abuse or neglect:** Section 135(1) of the MHA, a magistrates court has the power, on application from an approved mental health professional, to allow the police to enter premises **using force if necessary** and if thought fit, to remove the person to a place of safety if there is reasonable cause to suspect that they are suffering from a mental disorder and (a) have been, or are being, ill-treated, neglected or not kept under proper control, or (b) are living alone and unable to care for themselves.
- **Power of the police to enter and arrest a person for an indictable offence:** Section 17(1)(b) of PACE
- **Common law power of the police to prevent, and deal with, a breach of the peace.** Although breach of the peace is not an indictable offence the police have a common law power to enter and arrest a person to prevent a breach of the peace.
- **If there is a risk to life and limb:** Section 17(1)(e) of the PACE gives the police the power to enter premises without a warrant in order to save life and limb or prevent serious damage to property. This represents an emergency situation and it is for the police to exercise the power.

Self Neglect process flowchart (CSAB)

CSAB partner informed of self-neglect concerns

Agency takes reasonable steps to engage with individual(s) to manage needs and risks but is unsuccessful

Multi – Disciplinary meeting.
Mental capacity must be assessed with the ability of the individual to engage with support in order to assess and manage potential risk

Low Risk and Situation can be managed within agreed plan/ record and plan review.

High risk case refer concern to CCC if not involved already or coordinating.

CCC to consider if further inquiries needed to be undertaken under Sec 42 Duty