



Self-Neglect Practice Guidance

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1. Introduction

This document sets out guidance and procedure for responding to cases of self neglect in Somerset.

This can be a difficult area for intervention as issues of capacity and lifestyle choice are often involved which includes individual judgments 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 is not an easy task. However, the risks to individuals can be high, with some cases of self-neglect leading to the person's death.

Self-neglect has featured in a significant proportion of serious case reviews completed across the country following the death of an adult with care and support needs. These reviews illustrate the complexity of practice with adults who self-neglect.

The frequency with which Safeguarding Adult Boards have felt it necessary to inquire into the outcomes of cases of adults who self-neglect, and to develop procedures in response, suggest strongly the value of self-neglect being included in statutory guidance on safeguarding to support implementation of the Care Act 2014.

Social care agencies and practitioners should remain mindful of the criticisms levelled by Coroner's Courts when people known to be at risk of self-neglect are 'abandoned' by services following a superficial assessment of their capacity.

Multi-agency perspectives

This document is designed to be both a multi-agency guide to issues of self-neglect as well as offering procedural guidance for case workers in adult social services.

It is recognised that it is often housing, community and voluntary agencies who become concerned about people who self neglect and that sometimes it is these agencies that are best placed to form non-threatening relationships with people over time in an effort to persuade them to accept help.

Guidance

The document sets out indicators of self-neglect and the role of social services in assessing needs and providing support under the Care Act 2014.

The document stresses the importance of good capacity assessment. Often people may have an initial presentation of making a capacitated choice when refusing help but more detailed assessment, if this can be achieved, may indicate the person's decision making or executive capacity is impaired. This may be particularly true of people developing dementia or with other mental health conditions. It is important to balance people's right to make choices about how they live their life with their protection, especially if they are vulnerable. Robust assessment of the degree of risk and proportionality in intervening is key.

The document also sets out the important role of multi-agency partnership working which can help to flesh out a fuller picture and to plan a way forward.

Self neglect and safeguarding

Self neglect covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.

The Care Act 2014 clarified the position of self-neglect and safeguarding. Under the Act, self-neglect now falls under the definition of causes to make safeguarding enquiries. However, Care and Support Statutory Guidance (2016) clarified that self-neglect may not prompt a section 42 enquiry. An assessment should be made on a case-by-case basis. A decision on whether a response is required under safeguarding will depend on the adult's ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this without external support.

Section 42 of the Care Act states:

'Enquiry by local authority

- (1) This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there) – (a) has needs for care and support (whether or not the 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 the abuse or neglect or the 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.'*

Legal implications

The document sets out some of the legal grounds for intervention and for data and information sharing.

It covers responsibilities under the Mental Capacity Act 2005 and other powers to intervene rooted in both social care and public health. The document highlights that there is no one piece of legislation that easily provides a solution in all cases and that due care is needed when considering restricting a person's autonomy and right to private and family life under Article 8 of the Human Rights Act. However this right is a qualified right and must be balanced against a public authority's duty positively to promote people's rights and to take account of the wellbeing principle that runs throughout the Care Act. Consideration of Article 8 must also not limit consideration of Article 2, the Right to Life. What is important is that any limitation on Article 8 must be in accordance with the law and necessary and proportionate. Further guidance on legal remedies is given in Appendix 1.

Self neglect and child protection

The procedural guidance stresses the need to consider the welfare of any children who may be affected by issues of self neglect by an adult. Under children's legislation there is a much clearer framework for intervention if a child appears to be suffering harm.

Adult social services must work closely with children's assessment and child protection teams in such cases.

2. Self Neglect

Self neglect involves any failure by an adult to take care of him or herself which causes, or is reasonably likely to cause, serious physical, mental or emotional harm, or substantial loss of assets.

Self neglect should not lead to judgemental approaches to another person's standards of cleanliness or tidiness. All people will have differing values and comfort levels. Self neglect concerns a person whose ability to manage their surroundings, their personal care, finances and/or basic daily living skills is so compromised that this is directly threatening their health and safety or the health and safety of others around them.

It is important to recognise that assessments of self-neglect and hoarding are grounded in, and influenced by, personal, social and cultural values and professionals should always reflect on how their own values might affect their judgement.

Professionals dealing with concerns about self-neglect and hoarding are grounded in, and influenced by, personal, social and cultural values and professionals should always reflect on how their own values might affect their judgement.

Professionals dealing with concerns about self-neglect and hoarding need to find the right balance between respecting a person's autonomy and meeting their duty to protect the person's wellbeing.

Indicators of self neglect

Self-neglect is often defined across three domains – neglect of self, neglect of the environment and a refusal to accept help.

Neglect of self may include:

- Poor hygiene
- Dirty/inappropriate clothing
- Poor hair care
- Malnutrition
- Medical / health needs unmet (e.g. diabetes – refusing insulin, treatment of leg ulcers)
- Eccentric behaviour / lifestyle leading to harm
- Alcohol / substance misuse
- Social isolation
- Situations where there is evidence that a child is suffering or is at risk of suffering significant harm due to self neglect by an adult

Neglect of the environment may include:

- Unsanitary, untidy or dirty conditions which create a hazardous situation that could cause serious physical harm to the individual or others
- Hoarding
- Fire risk (e.g. smoker with limited mobility / hoarder)
- Poor maintenance of property
- Keeping lots of pets who are poorly cared for
- Vermin
- Lack of heating
- No running water / sanitation

- Poor finance management (e.g. bills not being paid leading to utilities being cut off, unexplained money drawn from bank/savings account)

The above is usually accompanied by a refusal to engage with services.

Causes of self neglect

Causes may be many and varied. Self neglect is often seen in older people for whom physical or mental decline means that the person is no longer able to meet all their personal or domestic care needs. In an ageing society, people may outlive their friends and relatives, and become increasingly isolated and lonely which in itself may contribute to depression and helplessness. Poverty and lack of mobility may exacerbate this and all these factors may contribute to the adult becoming unable to access health, care or maintain their home.

In younger people, mental illness, such as depression, psychosis, learning disability or personality disorder, may reduce a person's ability to self-care.

Issues of pride and a refusal to accept declining skills to self-care may also play a part in refusing support.

In some instances neglect occurs when an adult who is unable to self-care and who is dependent on a family carer does not receive the care they need and in some cases, offers of assessment and support may be prevented by the carer.

People on the autistic spectrum may also struggle to self-care and to manage their environment, and may be fearful of intervention because of difficulties communicating and engaging with others.

Hoarding

Hoarding is the persistent difficulty in discarding or parting with possessions, regardless of their actual value. The behaviour usually has deleterious effects – emotional, physical, social, financial, and even legal – for a hoarder and family members.

For those who hoard, the quantity of their collected items sets them apart from other people. Commonly hoarded items may be newspapers, magazines, paper and plastic bags, cardboard boxes, photographs, household supplies, food and clothing as well as collections of items have got out of hand and take over the living space.

Hoarding and safeguarding

Hoarding may become a reason to make safeguarding enquiries when:

- The level of hoard poses a serious health risk to the person or neighbours
- There is a high risk of fire or infestations by insects or animals
- Hoarding is connected with other concerns of self-neglect, such as neglect of physical health, lack of adequate nutrition
- Hoarding may be linked to serious cognitive decline and lack of capacity to self-care and care for the environment
- Hoarding is threatening a person's tenancy and they are at risk of being made homeless through closure orders or possession orders.

Responses to hoarding may include:

- If the person has capacity to make decisions about seeking help, then a referral, with their agreement, for psychological therapy or CBT would be indicated.

- Working with the person over time to support them in clearing their hoard. It may involve targeted work with the person on a plan to gradually clear the hoard and supporting them to do this.
- If the person lives in rented accommodation, they may need support in liaising with the landlord if they are threatened with eviction.
- The person may need support in liaising with environmental or pest control departments.
- With their agreement referral to the Fire Service for a preventative fire risk assessment.
- If the person lacks capacity with regard to managing their environment, then they may need ongoing support with self-care and managing their domestic routine.
- Careful assessment of capacity and a needs assessment is therefore important to establish how best and on what basis to intervene.
- When a person has capacity then it is important to work with them and to understand their wishes and feelings. If the person lacks capacity to make relevant decisions best interest decision making may be necessary whilst still taking into account of the person's wishes as far as these can be ascertained.
- The agencies who may be best placed to support people who self-neglect may one or a combination of:
 - Mental health services accessed via the GP
 - Voluntary services to provide advocacy and practical support
 - Housing tenancy support officers
 - Environmental services
 - Fire services
 - Social work safeguarding enquiries, needs assessment and care planning
 - Ongoing support and intervention

A multiagency planning meeting may be helpful to agree with the person a plan of support and who is best placed to provide this or if the person lacks capacity, to agree best interest decision making.

Fire risk and options for professionals

Clients who self-neglect may well neglect other aspects of day to day life such as the maintenance of appliances. For example, a lack of frequent checks by a trained engineer could lead to a boiler becoming unsafe. Everyday appliances such as a cooker/ stove may stop working. This may lead to more clandestine cooking practices and the use of camping type cooking materials or open flames. Such items pose a significant fire risk and the risk is magnified if associated with clutter and hoarding.

Overloaded sockets and worn wires (where the external insulation is worn away exposing the live wires) are also fire hazards to be aware of.

The use of candles is an increased fire risk. Many people use candles for decoration. For everyone, forgetting to extinguish them or not having sight of them (candle holders can burn through the surface that they are on) can lead to fires. However, if a client is using candles due to there being no light/ electricity in the property, then their use of candles is likely to be more frequent and consistent. This places them at greater risk.

Clients who hoard are at greater risk simply because there is more material in their homes to burn (known as "fire loading"). Secondly, properties where the resident hoards are often not fully accessible making it hard for plug points, appliances, wires, the boiler and other key points, to be checked regularly. Housing associations or landlords may take the decision to cut off

electricity or gas supplies if the person refuses to allow routine maintenance or if hoarding prevents access. This may lead to further reliance on candles.

One of the most dangerous risk factors is smoking. This intensifies when the smoker discards cigarettes in an irresponsible manner or when falling asleep while smoking in bed or in an arm chair. Those who combine smoking with alcohol or drug consumption are even more at risk as are those with mobility issues. Clutter may also prevent an escape from the property in the event of fire.

Statistics show that single parents, male or female, are more likely to have a fire than households where two parents live.

3. Guidance for professionals

Working with people who self-neglect

It has become increasingly evident that a short term case management approach to people who self-neglect is unlikely to be successful.

Case examples of successful work with people who self-neglect demonstrate the need for traditional social work values of relationship building, gaining trust, listening to people, assessing capacity at both a decision making and executive functioning level, taking account of the person's history and why they may have begun to self-neglect. The concept of through put of cases and early closure must be varied when working with adults who self-neglect; managers and supervisors need to take this into account in terms of case load allocation.

It is also clear from research into adults who self-neglect that intervening at an early stage is more effective than waiting until the concerns have become more severe and entrenched. Therefore too rigid an adherence to eligibility criteria in these cases may be counterproductive and lead to more intensive, intrusive and costly support being required later on.

Research evidences the importance of:

- A person centred focus which attempts to establish a relationship of trust and cooperation that can facilitate greater acceptance of support
- Gaining insight into family background and work by professionals to explore the motivation and understanding behind decisions to decline services
- Not accepting superficially refusals of service, which leave professionals working reactively to each crisis rather than proactively engaging with repeated refusals of support
- Monitoring changing needs in order to be ready to respond when the individual did recognise the need for help and may be prepared to engage.
- Ensuring that capacity is assessed and recorded thoroughly on a decision specific basis and reassessing capacity over time.
- Developing legal literacy and recording the legal basis for decisions.

An analysis of recommendations from nineteen Serious Case reviews in which self-neglect featured made recommendations for:

'a person-centred approach, which comprises: proactive rather than reactive engagement; attention to cultural, language and communication needs; and foregrounding service users' wishes, views, experiences and needs. When faced with service refusal, there should be fuller exploration of what may appear a lifestyle choice and of the outcomes the person wishes to achieve. Contact should also be maintained,

rather than the case closed, so that trust can be built and changes in motivation and in recognition of the need for help can be followed up..... also consider the individual's household, family and carers, with recommendations that carers must not be neglected in assessments and care planning, and that the dynamics between family members should be explored because they may underpin the self-neglect and profoundly influence a person's decision-making.'

Professor Michael Preston-Shoot speaks of the 'Care Frontational' approach to people who self-neglect – challenging them sensitively to consider the implications of self-neglecting behaviour and what the results may be. It is also important to move from a position of 'tell me' to 'show me'. This is because many people who self-neglect will say the right but may be unable to put this into practice. This moves the worker/ adult interaction from 'tell me what you are going to eat today?' to 'show me how you will buy the food and cook it.'

In making referrals or following up on concerns, the aim is to gather information to inform an assessment of need which should include:

- Name, address and date of birth
- Details of GP, District Nurse/Health Visitor
- Whether there is outside agency involvement
- Details of family involvement / contacts
- Information about any social or family contacts
- Whether the adult lives alone
- Whether the individual knows a referral is being made and whether they have given consent
- The nature of the concern and person's views about this as far as this can be ascertained
- Whether there has been an on-going issue or sudden deterioration in the individual's wellbeing
- Whether there any children at risk of harm as a consequence of the adult's behaviour

'How can we support people who self-neglect?' RiPFA 2015, identify 3 key stages:

1. 'Knowing' the individual, their unique history and the significance of their self-neglect complements the professional knowledge resources that practitioners bring to their work.
2. Such understanding is achieved through ways of 'being': personal and professional qualities of respect, empathy, honesty, patience, reliability and care – the ability to 'be present' alongside the person while trust is built.
3. Finally, 'doing' professional practice in a way that combines hands-on and hands-off approaches is important: seeking the tiny element of latitude for agreement, doing things - often practical things - that will make a small difference while negotiating for the bigger changes, and being clear about when enforced intervention becomes necessary.

Assessment of risk

It is the responsibility of all involved local authority workers to conduct and record a risk assessment and to review and share this when appropriate.

This should include information gathering:

- Whether the person is refusing medical treatment/medication; is this life threatening?
- Whether there is adequate heating, sanitation, water in the home.
- Whether there are signs of the client being malnourished e.g. may be signs of begging for food or scavenging in bins or visibly thin.

- The condition of the environment – poor state of repair, vermin such as rats or flies or hoarding of pets.
- Whether there is evidence of hoarding / obsessive compulsive disorder
- Whether there is the smell of gas
- Whether there are serious concerns over level of personal or environment hygiene
- Whether the person may be suffering from untreated illness, injury or disease, may be physically unable to care for themselves or may be depressed.
- Whether the adult has serious problems with memory or decision making, signs of confusion or dementia rendering them unable to care for themselves
- Whether there are associated risks to children
- Seek to establish with the adult a history of their life to help understand their current situation including any major losses or traumas.

When an adult refuses to engage and appears to be at serious risk of harm, a detailed and specific capacity assessment of both decision making and executive functioning skills is critical in helping to determine how best to intervene.

Capacity assessment in these circumstances is not a one off event but a series of repeated assessments to build an understanding of a person's ability to make informed decisions and to carry out these decisions.

If the person refuses initial contact, it is important not to close the case whilst uncertainty remains about the level of risk and the person's capacity to make informed decisions about their circumstances and need for support.

Legal interventions

In all circumstances, working with people with care and support needs should be carried out in a way that is least intrusive and restrictive and which maintains choice, control and dignity.

However failing to take action to support or protect people at risk of harm can also be negligent and a failure to preserve their dignity and wellbeing. It is always preferable to gain a person's agreement and only to consider more restrictive measures through legal remedies when this has failed or if the situation is an emergency.

Social workers should have a good understanding of the relevant legislation and should first and foremost work with the Care Act 2014, the Mental Capacity Act 2005 and Mental Health Act 1983 and 2007.

Practitioners also need to understand the powers of the Court of Protection, the Office of the Public Guardian and the Inherent Jurisdiction of the High Court. Further information is provided in Appendix 1.

Housing Support

Landlord Services and Housing Associations/ Registered Social Landlords can and do play an important role in supporting people who self-neglect and/or hoard.

Tenancy support officers can help to build relationships with their tenants in an effort to support people who are in need to avoid them losing their tenancy and becoming homeless.

Sometimes a combination of offering support juxtaposed with clear messages about what can occur if people do not cooperate, such as court applications to regain possession of a property

which results in the tenant losing their tenancy completely or the use of a temporary premises closure order to manage a property back into suitable repair can help to secure an adult's engagement. See appendix 1.

4. Mental Capacity, Self Neglect and Hoarding

Assessing Capacity

The Mental Capacity Act 2005 states that a person is unable to make a decision for himself if he is unable—

- (a) to understand the information relevant to the decision,
- (b) to retain that information,
- (c) to use or weigh that information as part of the process of making the decision, or
- (d) to communicate his decision (whether by talking, using sign language or any other means).
- (e) A person is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).

Establishing a person's capacity to make decision with regard to their self-neglect and hoarding is often a challenging exercise for many professionals.

The Mental Capacity Act is clear on the presumption of capacity and the rights of individuals to make unwise or eccentric choices; however assessing the capacity of someone who is both seriously neglecting themselves to the extent of threat to life and well-being and who refuses to engage is not easy.

The Mental Capacity Act (MCA) requirement to assume capacity is sometimes used by a practitioner faced with a person who is self-neglecting and refusing to engage, to reach a superficial conclusion that the person has capacity; meanwhile the supporting evidence of degree of harm that is occurring, may indicate a need for a closer look.

The MCA Code of Practice says that, if a person repeatedly makes unwise decisions that put them at significant risk of harm or exploitation or makes a particular unwise decision that is obviously irrational or out of character, although this may not necessarily mean that the person lacks capacity, there might be need for further investigation, taking into account the person's past decisions and choices. For example, have they developed a medical condition or disorder that is affecting their capacity to make particular decisions? Are they easily influenced by undue pressure? Or do they need more information to help them understand the consequences of the decision they are making?

In cases of self-neglect it is essential that a person's capacity to make informed choices about their personal and domestic care is assessed carefully. Capacity is a complex attribute, involving not only the ability understand the consequences of a decision but also the ability to execute the decision.

Without more in-depth assessment of capacity, there is a risk that the absence of executive functioning may not be recognised and the person may be deemed to be making a capacitated choice when in reality they are not able to carry through the necessary actions to keep themselves safe.

With regard to people who hoard there may be underlying mental health disorders such as obsessive compulsive disorders which impact on their decision making ability with respect to their hoard.

There is a concern too that capacity assessments may overlook the decision specific nature of capacity, with the result that apparent capacity to make simple decisions is assumed in relation to more complex ones.

SCIE report 46 'Self-neglect and adult safeguarding: findings from research'

<http://www.scie.org.uk/publications/reports/report46.pdf> provides a detailed exposition of various literature and research about assessing capacity and the varying views as to whether a person may or may not be deemed to have capacity about the life choices they are making.

The SCIE reports suggests: *'Thus capacity must entail both the ability to make a decision in full awareness of its consequences, and also the capacity to carry it out'*.

This means that assessing a person's capacity to decide whether or not to allow a social worker or other professional to enter their home in order to carry out an assessment should not be used to conclude also about the person's capacity to cook a meal, go shopping, plan ahead for health appointments, to manage financial arrangements including paying utility bills or rent and to organise washing and housekeeping. In some cases, a person's capacity to know that they need to do these things may be thwarted by the pain and exertion required to carry them out, by severe depression or by pride that prevents then acknowledging a need for help.

If after detailed capacity assessment it has been possible to assess that the adult is making a capacitated decision to refuse support and can explain the reasons why, the risk of this decision must be discussed with the individual to ensure that they are fully aware of the consequences of their decision. This should be recorded.

Someone who hoards may exhibit the following:

- Severe anxiety when attempting to discard items
- Obsessive thoughts and actions: fear of running out of an item or of needing it in the future; checking the trash for accidentally discarded objects
- finding it hard to throw anything away and just move items from one pile to another
- finding it hard to categorize or organize items
- having difficulties making decisions
- keeping or collecting items that are of no monetary value, such as junk mail and carrier bags, or items they intend to reuse or repair
- distress, such as feeling overwhelmed or embarrassed by possessions
- struggling to manage everyday tasks such as cooking, cleaning and paying bills
- becoming extremely attached to items, refusing to let anyone touch or borrow them
- functional impairments, including loss of living space, social isolation, family or marital discord, financial difficulties, health hazards.

Some studies suggest that hoarding often starts in the teenage years (as early as 13 or 14), where broken toys or school papers may be collected. The hoarding then becomes worse with age. It is estimated that around 2-5% of the UK adult population experiences symptoms of compulsive hoarding.

Hoarding can lead to a reduced quality of life. The collection can lead to reduced living space and often limits private and family life, for example by making it impossible to invite friends back to the house and by fears of shame at the hoard.

Extreme hoarding can lead to serious risks to life through the possibility of the hoard collapsing on the person and fire risk with lack of means of escape. The hoard may also prevent routine cleaning, leading to infestations by insect or animal life. Sometimes the hoard is so serious that rooms become unusable and this can include bathroom and kitchen. Fire risks increase when the person tries to cook surrounded by flammable materials. As well as posing a risk to the person who hoards, neighbours can also be placed at risk from fire and infestations. When the person with a hoarding disorder is part of a family, normal family life is often disrupted and children can suffer harm from becoming socially isolated or having nowhere to store their own possessions or to do homework.

Hoarding has now been recognized as a mental disorder within the Diagnostic and Statistical Manual of Mental Disorders. People who hoard have often suffered traumas or losses in their life which lead to anxiety, depression and obsessional / compulsive behaviours. The person develops an extreme emotional attachment to the hoard.

Many people who hoard will have capacity in terms of decision making about the hoard and will often be torn between wanting to have a better quality of life and inability psychologically and emotionally to let go of the hoard. In order to support a person with a hoarding disorder, patient encouragement may be needed combined with therapeutic interventions such as counselling. Some people who hoard may do so because they are experiencing cognitive decline through dementia or other disorder which prevents them from being able to manage and discard possessions. It is important to gain a history to establish whether the hoarding disorder is long standing and linked to a psychological disorder or whether it is linked to loss of cognitive capacity or learning disability. The reason for the hoarding behaviour will help to inform the best ways to intervene.

The National Institute for Health and Care Excellence (NICE) recommends that a period of cognitive behavioural therapy (CBT) is considered for adults who have significant problems with hoarding.

Regular sessions of CBT over a long period of time are usually necessary and should include some home-based sessions, working directly on the clutter. This requires motivation, commitment and patience, as it can take many months to achieve the treatment goal.

The goal is to improve the person's decision-making and organisational skills, help them overcome urges to save, and ultimately clear the clutter, room by room. The therapist does not throw anything away but helps guide and encourage the person to do so. The therapist can also help the person develop decision-making strategies, while identifying and challenging underlying beliefs that contribute to the hoarding problem.

The person gradually becomes better at throwing things away, learning that nothing terrible happens when they do so, and becomes better at organising items they insist on keeping.

They may also be encouraged to keep a daily log of what they have purchased to monitor incoming clutter.

In some cases, support from decluttering and clearance services can help but this is rarely successful in the long term unless it is carried out sensitively with the cooperation and agreement of the person who hoards. If not, it can simply add to the trauma and intensify the need to start collecting again.

At the end of treatment, the person may not have cleared all their clutter but they will have gained a better understanding of the problem. They will have a plan to help them continue to build on their successes and avoid slipping back into their old ways.

However if the hoarding behaviour is due to cognitive decline or learning disability, psychological therapy may not be beneficial; instead the person may need ongoing practical help to maintain their home.

Initial contact

Concerns regarding people who self neglect may be raised by any number of different sources, including concerned family members or neighbours who may raise an alert via the council. Voluntary organisations, such as Age UK, or churches and faith groups, who are already supporting a person may also become aware of self neglect concerns. Other statutory agencies may also raise alerts, such as the Ambulance, Fire Service or health providers including GP's, mental health services, addiction services and hospital staff. Housing providers are also often key holders of important information about people who self-neglect and may be the first to pick up on serious concerns about a tenant.

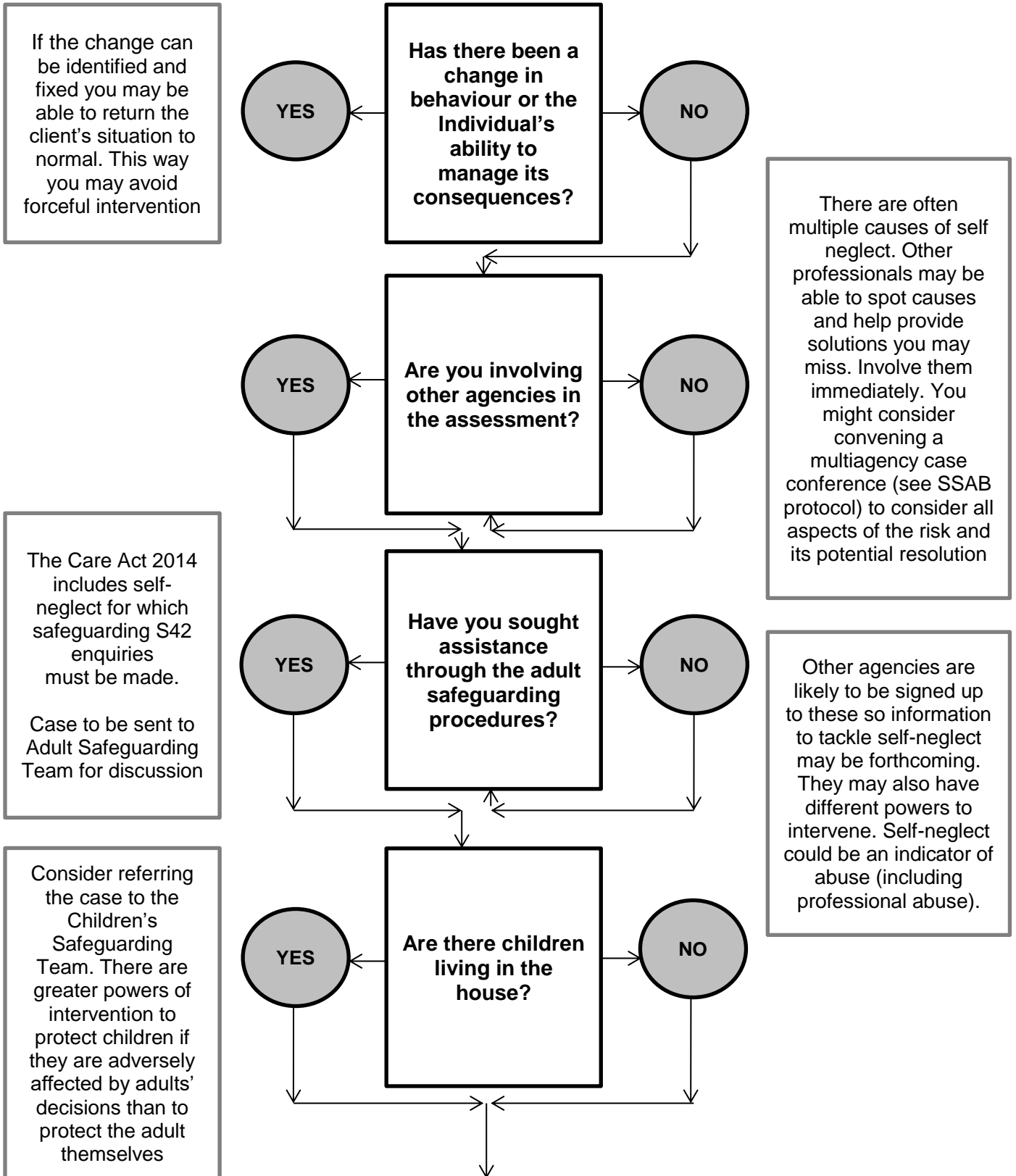
Advocacy and support

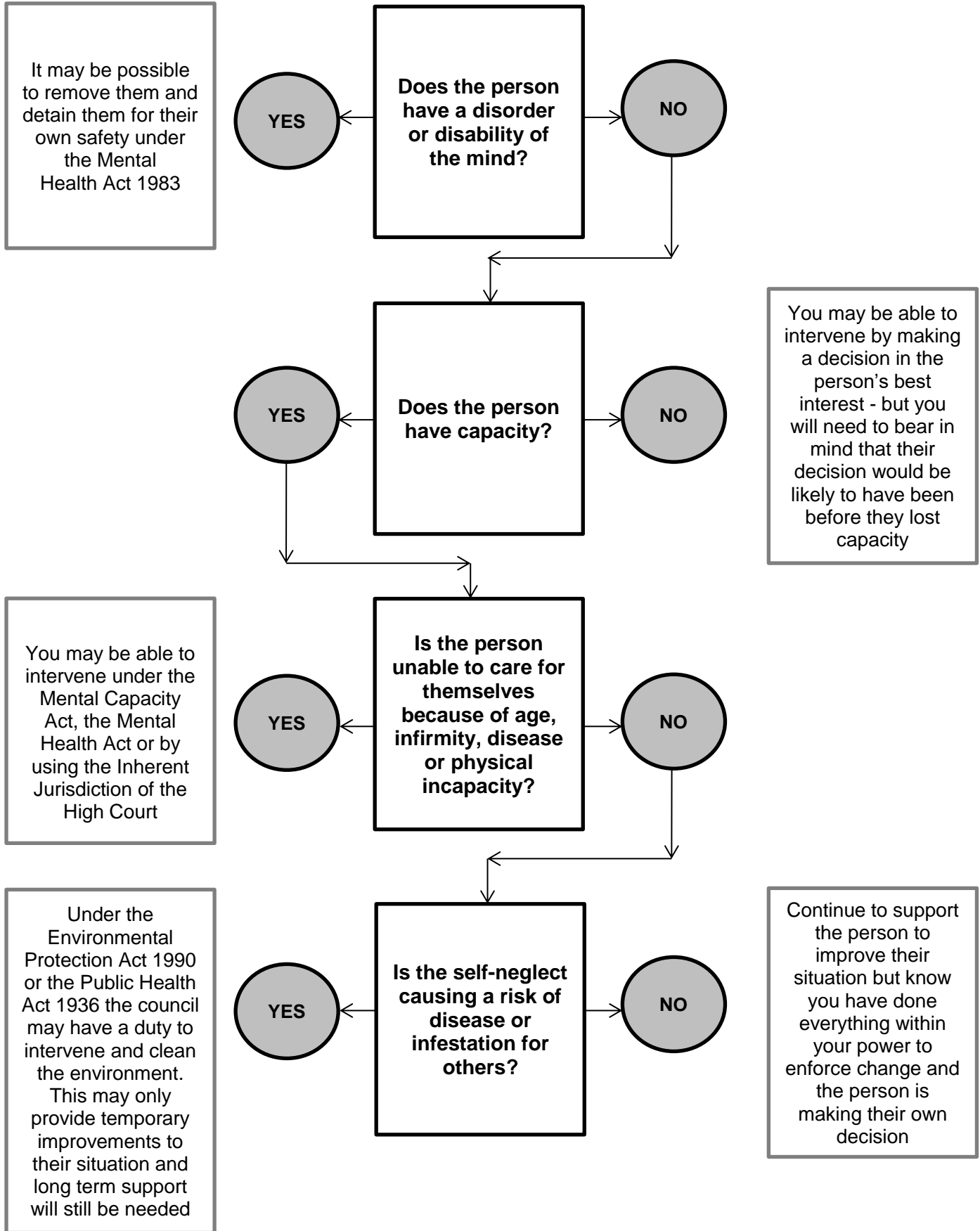
The Care Act 2014 requires that a Local Authority must arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or community care assessment where the adult has 'substantial difficulty' in being involved in the process and where there is no other appropriate individual to help them. There is a difference between people who do not lack capacity and have substantial difficulty, and people who lack capacity who by the nature of their cognitive impairment will have substantial difficulty.

People who self-neglect or hoard may not agree to engage with an advocate any more than they may agree to engage with any other professional. However the need for advocacy should be considered and kept in mind. This is especially true if the person's situation may lead to sanctions, for example if the landlord is seeking a possession order due to the unsafe state of the property. People who hoard and who recognize that they have a problem may agree to counselling.

How can I intervene in cases of self neglect?

In cases of suspected self-neglect, social work principles dictate that the first course of action should be to work alongside a person to empower them to change their situation. However, people who neglect themselves are often suspicious of authority and gaining trust and consent to care can take time. There may be times when extreme action is called for.





4. Contact

All general enquiries regarding this guidance should be passed to the Somerset Safeguarding Adults Board Business Manager (ssab@somerset.gov.uk; Tel: 01823 357014)

Document History

Revision Date (yyyy/mm/dd)	Summary of changes	Version issued	Sign off
2015/11/27	First draft	V0.1	
2016/06/16	Published	V1.0	P&P Subgroup
2018/03/22	Reviewed by SSAB P&P Subgroup. Typing error corrected.	V1.1	P&P Subgroup

**Acknowledgements and thanks to Croydon's Safeguarding Adults Board
on which this practice guidance is based**

Legislation

Care Act 2014

Under Section 42 of the Care Act, a local authority has a duty to make enquiries itself or cause others to make enquiries in cases where it has reasonable cause to suspect that an adult:

- has needs for care and support (whether or not the local authority is meeting any of those needs)
- is experiencing, or at risk of, abuse or neglect
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

A safeguarding enquiry may not necessarily result in what is typically considered to be a 'safeguarding response', such as an investigation by the police or a health and social care regulator, but it could result in other action to protect the adult concerned, such as providing a care and support package for either or both the adult and their carer.

Under the Care Act, there is no express legal power of entry or right of unimpeded access to the adult. However, where necessary, local authorities can apply to the courts or seek assistance from the police to gain access in certain circumstances under existing powers.

Gaining access to an adult who may be at risk of harm:

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 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 neglect or abuse: 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 a 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 risk to life and limb: Section 17(1)(e) of 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).

Mental Capacity Act 2005

This act established important principles including:

Principle 1: Self-determination and informed consent. There is a presumption that vulnerable adults will take their own decisions and that support, assistance, services and sometimes major intervention for an individual will be on the basis of that person's informed consent.

Principle 2: Proportionality and least restrictive intervention. Assistance and intervention should be based on a principle of proportionality and least intrusiveness. That is, the extent, nature and degree of a response should be commensurate with the extent, nature and degree of the risks in question.

A person must be assumed to have capacity unless it is established that he lacks capacity. A person is unable to make a decision for himself if he is unable:

- To understand the information relevant to the decision
- To retain that information
- To use or weigh that information as part of the process of making the decision ,or
- To communicate his decision whether by talking, using sign language or any other means.

An inability to satisfy any one of these four conditions would render the person incapable.

Under section 2 of the Mental Capacity Act 2007 under **Best Interest** the decision maker must:

- a) Consider whether it is likely that the person will at some time have capacity in relation to the matter in question.
- b) Permit and encourage the person to participate as fully as possible in any act done for him and any decision affecting him.
- c) Consider the person's past and present wishes and feelings [and, in particular, any relevant written statement made by him when he had capacity.]
- d) Consider the beliefs and values that would be likely to influence his decision if he had capacity, and the other factors that he would likely to consider if he were able to do so.
- e) Take in to account, if it is practicable and appropriate to consult them ,the views of :
 - i. anyone named by the person as someone to be consulted on the matter in question or in matters of that kind.
 - ii. anyone engaged in caring for the person or interested in his welfare.
 - iii. any donee of a Lasting Power Of Attorney granted by the person
 - iv. any deputy appointed for the person by the court.

The Court of Protection can make an order under Section 16(2) of the MCA relating to a person who lacks capacity's welfare, which makes the decision on that person's behalf to allow a third party (including local authority practitioners) access to that person. Failure to comply with an order of the Court of Protection could be a contempt of Court.

The Court can attach a penal notice to the order, warning that failure to comply could result in imprisonment or a fine.

Mental Capacity Act Code of Practice

The Mental capacity act codes of practice guidance notes cover:

- Who should assess capacity?
- Whether the person has made an advance decision or given authority to someone else to make this decision.
- How to determine "Best Interest" and when to call a Best Interest meeting.
- The role and function of the Independent Mental Capacity Advocate.
- The role of the Court of Protection.
- The deprivation of Liberty Safeguards.

When assessing someone who self-neglects it is important to remember that when a person makes a decision which is unwise, inappropriate or places themselves at risk, this does not necessarily mean that they lack capacity to make that decision. Poor decision making alone does not constitute lack of capacity. The assessment of capacity must be based on the person's ability to make a decision in relation to the relevant matter. In case of self-neglect where a person is repeatedly making decisions that place him/herself at risk and could result in preventable suffering or damage, an assessment of capacity should be undertaken.

When a vulnerable adult has been assessed under the Mental Capacity Act as lacking capacity, a referral to an Independent Mental Capacity Advocate will assist to ensure that any action taken is on the basis of the person's best interest. The action taken should consider:

- The wishes, feelings, values and benefits of the person who has been assessed as lacking mental capacity.
- The views of family members, parents, carers and other people interested in the welfare of the person lacking capacity, if it is practical and appropriate.
- The views of any person who holds an Enduring Power of Attorney or a Lasting Power of Attorney.
- The views of any Deputy appointed by the Court of Protection to make decisions on the persons behalf.

Office of the Public Guardian

The OPG functions under the Mental Capacity Act to protect people lacking capacity and specifically to:

- set up and manage registers of lasting powers of attorney, of enduring powers of attorney and of court order appointed deputies
- supervise deputies
- send Court of Protection visitors to people who may lack capacity and to those acting formally on their behalf
- receive reports from attorneys and deputies
- provide reports to the Court of Protection
- deal with complaints about attorneys and deputies.

Clearly, these functions are directly relevant to safeguarding. The OPG has published a document outlining procedures and timescales to be followed in response to allegations, suspicions or reports of abuse of a vulnerable adult. It envisages that such concerns may be raised from a variety of sources (OPG, 2008).

Inherent jurisdiction of the High Court

'Inherent jurisdiction' is a term used to describe the power of the High Court to hear any case which comes before it unless legislation or a rule has limited that power or granted jurisdiction to some other court or tribunal to hear the case. This means that the High Court has the power to hear a broad range of cases including those in relation to the welfare of adults, so long as the case is not already governed by procedures set out in rules or legislation. It is 'common law' developed by the High Court to control the procedures before it and to stop any injustices arising from it being prevented from hearing any case.

It is not normally used in relation to people who lack capacity, because such cases are dealt with by the Court of Protection under the procedures established by the MCA. However, inherent jurisdiction may still be relevant to an adult lacking capacity if the matter and intervention required are not covered by the MCA; for example, when making a declaration of non-recognition of a marriage or depriving a person of their liberty for the purpose of enforcing physical treatment. It will also sometimes be necessary for a local authority to make an application to the High Court to ask the Court to exercise its inherent jurisdiction to protect an adult with mental capacity.

The order could in principle be directed against a third party and so relevant to a situation on which this guide focuses: the denial of access by a third party to a person suspected of experiencing, or at risk of, abuse or neglect.

Mental Health Act 2007

Sections of the mental health act may be applicable in cases of self harm or self neglect where the person is also suffering from a mental disorder.

In 2007 the term personality disorder, which may be present in cases of self harm now comes under the definition of "mental disorder".

Section 135 Mental Health Act

Provides the authority to seek a warrant authorising a Police Officer to enter premises if it is believed that someone is suffering from a mental disorder, is being ill treated or neglected or kept otherwise than under proper control anywhere within the jurisdiction of the court, or being unable to care for himself and is living alone in any such place.

This allows the Police Officer with a Doctor and approved Mental Health professional to enter the premises and remove the person to a place of safety for a period of up to 72 hours with a view to an application being made under part II of the Act, or other arrangements for their treatment or care. A place of safety may include a suitable registered care home.

Section 7 of the 2007 Mental Health Act – Guardianship

Application for guardianship is made by an approved Mental Health Professional or the person's nearest relative (as defined under the Act). Two Doctors must confirm that:

- The patient is suffering from a mental disorder of a nature or degree that warrants reception into guardianship and;
- It is necessary in the interests of the patient's welfare or for the protection of others.

The guardian must be a local social services authority, or person approved by the social services authority, for the area in which the proposed guardian lives.

Guardianship requires the:

- Patient to live at a place specified by the guardian
- Patient to attend places specified by the guardian for occupation, training or medical treatment (although the guardian cannot force the patient to undergo treatment) that a doctor, social worker or other person specified by the guardian can see the patient at home.

Environmental health legislation

Local authorities with environmental health responsibilities have powers to deal with public health problems, including as a last resort powers of entry to a dwelling. These powers are sometime relevant to vulnerable adults who may be subject to extreme self-neglect or neglect from other people, and where the consequence is that a public health issue has been created.

Public Health Act 1936

Under the Public Health Act 1936, local authorities have a duty to give notice to the owner or occupier of a dwelling to take certain steps to clean and disinfect a dwelling, and destroy vermin. The duty is triggered if the local authority believes the filthy and unwholesome state of the premises is prejudicial to health, or if the premises are verminous.

Sections 31-32 Public Health Act (1984)

Section 31 indicates that the occupier of a premises can be required to “cleanse and disinfect” the premises and to disinfect or destroy any unsanitary articles. If the occupier fails to comply, the local authority can take the necessary action and charge the occupier for doing so.

Section 32. The local authority can “cause any person to be removed to any temporary shelter or house accommodation provided by the authority”, with or without their consent, using reasonable force if necessary. If the person does not do what the notice requires, the local authority has the power to carry out the work itself and make a reasonable charge. The person is also liable to a fine.

If a person, or their clothing, is verminous, the local authority can remove him or her – with their consent or with a court order – for cleansing (Public Health Act 1936, Sections 83–86).

As a last resort the council has a power of entry to premises, using force if necessary. An order can be obtained from a magistrates’ court (Public Health Act 1936, Section 287).

Environmental Health Protection Act 1990

The Local Authority has a duty to investigate statutory nuisances as set out in s79 of the Act. Where satisfied a statutory nuisance exists the Local Authority must serve a notice imposing requirements. The act contains various powers to take action once inside the premises.

Crime & Policing Act 2014 (section 76-93) Part 4, Chapter 3 of the ASB Premises Closures

A closure order can subsequently be issued if the court is satisfied:

- that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
- that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or

- that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

Housing Act 1985, as amended. Clause 14: Access:

This legislation covers the right to force entry for essential maintenance of gas/ electricity facilities or to cut off supplies. It provides a right:

- to enter the property at any reasonable time to inspect and carry out any repairs, improvements or other works to the property or any adjoining property, including inspecting for pests and to carry out any treatment works that may be necessary, and for any purpose that ensures the conditions of tenancy are being adhered to, provided we give you at least 24 hours' written notice.
- In the event of an emergency to enter the property without notice by any necessary means.

Human Rights Act 1998**Article 8- Right to respect for private and family life**

This states that everyone has the right to respect for his private and family life, his home and correspondence and that there shall be no interference by a public authority with the exercise of this right except in certain circumstances. Any intervention must accord with the law and be for a range of reasons which include public safety and the protection of health or for the protection of the rights and freedoms of others. However Article 8 is a qualified right and has to be balanced against other laws designed to protect the individual and/or those around them.

Article 2 – Right to life.

Article 2 is one of the most fundamental provisions in the European Convention on Human Rights. The state must never arbitrarily take someone's life and must also safeguard the lives of those in its care. In addition, the state must carry out an effective investigation when an individual dies following the state's failure to protect the right to life, or the use of force by government officials.

Article 5 - Right to liberty and security

This states that no one should be deprived of his liberty other than in accordance with the procedure prescribed by law or in a number of specified circumstances. One of the provisions relates to 'lawful detention for the prevention of the spreading of infectious diseases, of service users of unsound mind, alcoholics, drug addicts or vagrants' (5) (l) (e)