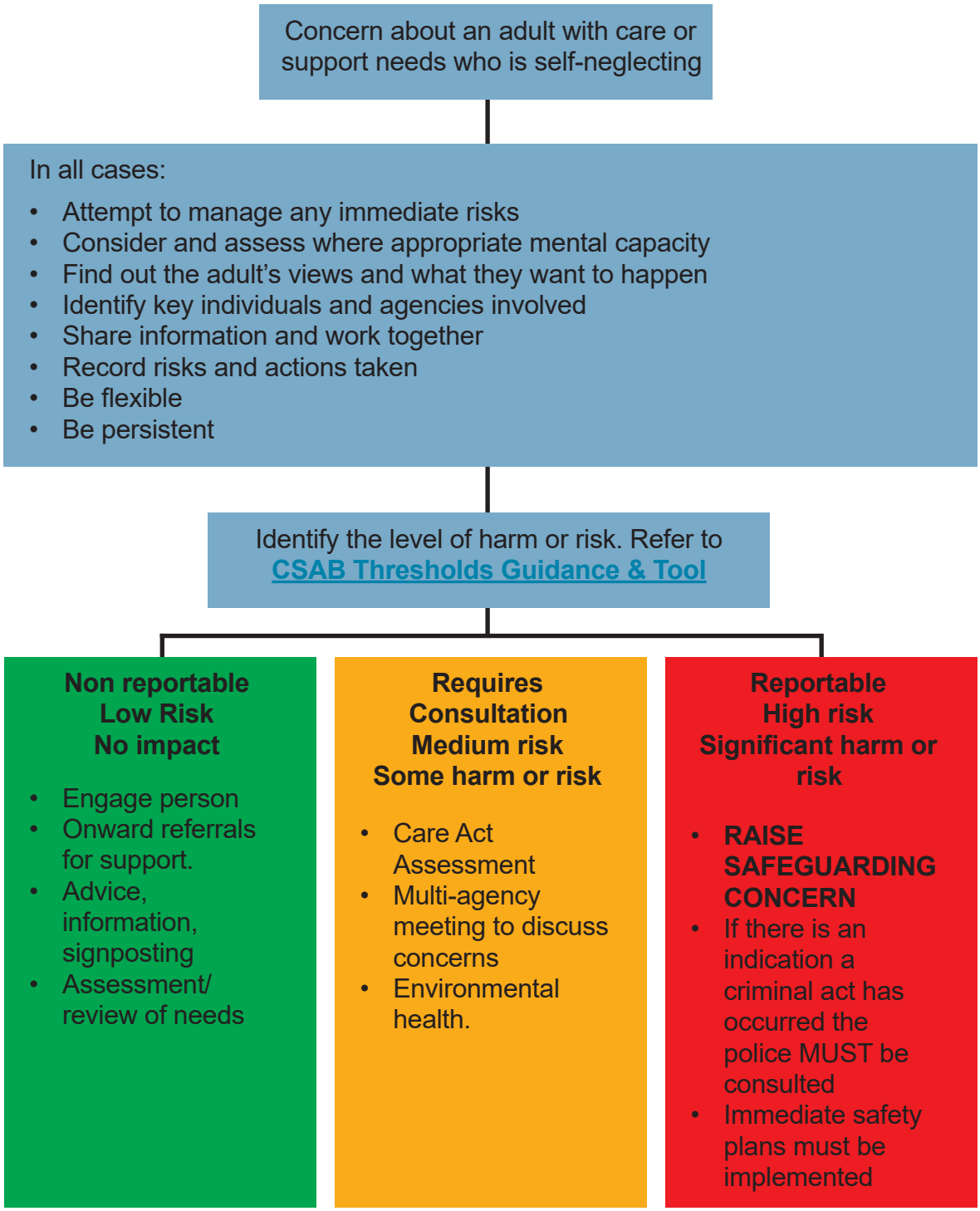
Safeguarding Adults
Self Neglect Guidance

October 2021

@cumbriasab

cumbriasab.org.uk

Cumbria Safeguarding Adults Board



Ensure you consider any risks to others, including children and other adults with care and support needs. If you are concerned about the welfare of a child, please contact Children's Social Care:

Cumberland Safeguarding Hub
0333 240 1727

Westmorland and Furness Safeguarding Hub
0300 373 2724

Contents

1. Introduction

2. The Care Act (2014)

3. Definitions of self-neglect

4. Understanding self-neglect

5. Mental Capacity

6. Prevention

7. Identifying the level of risk or harm & thresholds

8. Possible responses to self-neglect

    8.1 Responses applicable to all levels of risk

    8.2 Responses to low-level risk/harm

    8.3 Responses to significant/very significant risk/harm

    8.4 Responses to critical risk/harm

9. Ending involvement

Appendix 1 Legislation

Thanks are given to North of Tyne Safeguarding Boards for giving permission to use the Self Neglect Guidance.

1. Introduction

This multi-agency guidance is intended for practitioners supporting adults with care and support needs who are at risk of harm as a result of self-neglect. Practitioners should also refer to organisational policy.

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.

Managing the balance between protecting adults from self-neglect and their right to self-determination is a challenge for professionals. This guidance aims to support good practice in this area. It should be noted that self-neglect may not prompt a section 42 enquiry, this is considered on a case by case basis.

The guidance in intended to be overarching guidance and practitioners should also refer to internal policy and procedure and **Cumbria Safeguarding Adults Thresholds Tool and Guidance, Cumbria Safeguarding Adults Board Safeguarding Policy and Procedures.**

Learning from Safeguarding Adult Reviews

In Safeguarding Adult Reviews (SARs) where self-neglect was a theme, findings have included the following;

- The importance of early information sharing, in relation to previous or on-going concerns.
- The importance of thorough and robust risk assessment and planning.
- The importance of face-to-face reviews.
- 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 safeguard 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 / support should be re-visited at regular intervals (defined by the agency or support required): it may take time for an individual to be ready to accept some support.
- The need for practitioners and managers to challenge and reflect upon cases through the supervision process and training.
- The need for robust guidance to assist practitioners in working in this complex area.
- Assessment processes need to identify who carers are (and significant others – the "whole family approach") and how much care and/or support they are providing.

2. The Care Act (2014)

Self-neglect and Safeguarding Adults - Legal Framework

The Care Act (2014) placed expectations on Safeguarding Adult's Boards (SABs) to establish systems and processes to identify how all agencies will minimise risk and harm with regards to Self-neglect.

The Care Act placed a duty to cooperate on the local authority, police and health services and raised the expectations about the cooperation of other agencies. The specific duties outline by the Care Act for Local authorities are:

Assessment (Care Act section 9 and section 11)

The local authority must undertake a needs assessment, **even when the adult refuses**, where:

✓ it appears the adult may have needs for care and support
✓ and is experiencing, or is at risk of, self-neglect.

This duty applies whether the adult is making a capacitated or incapacitated refusal of assessment.

Safeguarding Enquiry (Care Act section 42)

The local authority must make, or cause to be made, whatever enquiries it thinks necessary to enable it to decide what action should be taken in an adult's case, when:

The Local Authority has reasonable cause to suspect that an adult in its area:

- Has needs for care and support
- Is experiencing, or is at risk of, self-neglect, and
- As a result of those needs is unable to protect themselves against self-neglect, or risk of it. (The persons inability to protect themselves by controlling their own behaviour)

Responding to self-neglect must be proportionate 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.

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.

The statutory guidance identifies that it can be difficult to assess self-neglect. Specifically, that it may be difficult to distinguish between whether a person is making a capacitated choice to live in a particular way (which may be described as unwise) and whether the person lacks mental capacity to make the decision.

Other key changes (of relevance to how self-neglect is dealt with under the safeguarding adults framework) include the removal of a significant harm threshold and that the adult at risk does not need to be eligible for social care services for a safeguarding adults enquiry to commence.

Duty of Cooperation

The Care Act (2014) makes integration, cooperation, and partnership a legal requirement on local authorities and on all agencies involved in public care, including, the NHS, independent or private sector organisations, housing, and the Police. Cooperation with partners should enable earlier intervention - the best way to prevent, reduce or delay needs for care and support and safeguard adults at risk from abuse or neglect.

Wellbeing principle

The Care Act (2014) places significant emphasis on the wellbeing principle with decisions being person-led and outcome-focused. Local authorities must promote wellbeing when carrying out any of their care and support functions in respect of an individual, including when carrying out safeguarding adults' enquiries. The wellbeing principle will be an important consideration in responding to self-neglect cases. The definition of wellbeing as defined in the Care Act relates to the following areas: -

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day to day life (including over care and support provided and the way it is provided);
- Social and economic wellbeing;
- Domestic, family and personal relationships;
- Participation in work, education, training or recreation;
- Suitability of living accommodation;
- The individual's contribution to society.

Prevention

In the majority of self-neglect cases, early intervention and preventative actions will negate the need for safeguarding adult's procedures to be used. The Care Act (2014) emphasises the importance of using local community support networks and facilities provided by partner and voluntary organisations.

3. Definitions of Self-Neglect

Whilst there is no standard definition of self-neglect, in addition to the Care Act (2014) definition above, research has suggested that there are three recognised forms of self-neglect which include:

1. **Lack of self-care,** this may involve neglecting personal hygiene, nutrition and hydration or health. This type of neglect would involve a judgement to be made about what is an acceptable level of risk and what constitutes wellbeing.
2. **Lack of care of one's environment,** this may result in unpleasant or dirty home conditions and an increased level of risk in the domestic environment such as health and safety and fire risks associated with hoarding. This may again be subjective and require a judgement call to determine whether the conditions within an individual's home environment are acceptable.
3. **Refusal of services that could alleviate these issues,** this may include the refusal of care services, treatment, assessments, or intervention, which could potentially improve self-care or care of one's environment.

4. Understanding Self-Neglect

Indicators of Self-Neglect

- Neglecting personal hygiene impacting upon health (including skin damage/pressure ulcers)
- Neglecting home environment, with an impact upon health and wellbeing and public health issues. This may also lead to hazards in the home due to poor maintenance. Not disposing of refuse leading to infestations
- Poor diet and nutrition leading to significant weight loss or other associated health issues (including skin damage/pressure ulcers)
- Lack of engagement with health and other services / agencies
- Hoarding items with excessive attachment to possessions, people who hoard may hold an inappropriate emotional attachment to items
- Substance misuse
- Large number of pets

Factors that may lead to individuals being overlooked

- The perception that this is a "lifestyle choice."
- Poor multi-agency working and lack of information sharing
- Lack of engagement from the individual or family; challenges presented by the individual or family making it difficult for professionals to work with the individual to minimise risk
- An individual in a household is identified as a carer without a clear understanding of what their role includes which can lead to assumptions that support is being provided when it is not
- A de-sensitisation to / from well-known cases, resulting in minimisation of need and risk
- An individual with mental capacity making unwise decisions, withdrawing from agencies however continuing to be at risk of significant or serious harm
- Individuals with chaotic lifestyles and multiple or competing needs
- Inconsistency in thresholds across agencies and teams – level of subjectivity in assessing risk

Contributing factors which may lead to or escalate self-neglect

- Age related changes, in physical health or mental health
- Bereavement/ traumatic event
- Chronic mental health difficulty
- Alcohol or drug dependency/ misuse
- Social isolation
- Fear and anxiety

5. 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 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.

Mental capacity assessments are both time and decision specific and should therefore be considered and/or 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. Family or carers may also be able to support as they may well have experience of the individuals background, understanding and behaviour patterns. 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 a 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 self-neglect cases where there is a risk of significant harm (or higher),

In particularly challenging and complex cases, it may be necessary for a referral to the Court of Protection to make the best interests decision. Any referral to the Court of Protection should be discussed with legal services and the relevant Safeguarding Adults Manager. Due to the complexity of such cases, there must be a safeguarding strategy meeting to oversee the process.

If a person is assessed as having mental capacity this does not negate the need for action under safeguarding adult's procedures, particularly where the risk of harm is deemed to be serious or critical. Where professionals foresee serious or critical harm to a person and they have mental capacity, duty of care extends to gathering all the necessary information to inform a thorough risk assessment and subsequent actions even without the consent of the individual. It may be determined that there are no legal powers to intervene, however it will be demonstrated that risks and possible actions have been fully considered on a multi-agency basis.

6. 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 of friends who are appropriate to consult on these decisions.

7. 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.

8. Identifying level of risk/harm

Responding to self-neglect will depend on the level of risk/harm that has been identified. Professionals should refer to the **Safeguarding Adults Thresholds Tool and Guidance** which includes self-neglect as well as considerations about the vulnerability of the individual and the circumstances of the case.

The Safeguarding Adults Thresholds Tool seeks to support practitioners, partners, and providers, working within the adult sector, to report and respond to concerns at the appropriate level and to have a consistency of approach across agencies. This guidance is not a substitute for professional judgement but should be used to assist decision making and to support professional judgement.

The guidance should be used to:

- Help determine a consistent approach to identifying what concerns may require a response under the safeguarding process.
- Support decision making when alternative processes should be used.

Low Risk: Lower level concern where threshold of further enquires under safeguarding are unlikely to be met. No impact and not reportable. Agencies should keep a written internal record of what happened and what action was taken, following your own internal process.

Where there are a number of low-level concerns consideration should be given as to whether the threshold is met for a safeguarding enquiry due to increased risk.

Circumstances could include, but are not exclusive to:

- Concern about an adult who is beginning to show signs and symptoms of self-neglect
- Property neglected but all services/ appliances work
- There is no / low risk or impact to self or others
- Risks can be managed by current professional oversight or universal services
- The person is not at risk of losing their place within the community.
- Some evidence of hoarding – no impact on health/safety.
- No access to support
- Non-compliant with support but no impact on health / safety / wellbeing

Medium Risk: Incidents at this level require consultation and could be discussed with your Designated Safeguarding Lead or Safeguarding Adults Service. There is some harm or risk of harm. This may include situations where presenting circumstances indicate risks factors are present that place the adult at risk of harm through self-neglect, but available information indicates that risk level is not high or significant. This can include but may not be exclusive to:

- Some signs of disengagement with professionals
- Indication of lack of insight
- Lack of essential amenities / food provision
- Collecting a large number of animals in inappropriate conditions.
- Increasing unsanitary conditions
- There is medium risk and some impact to self / others
- Non-compliance with medication – medium risk to health and wellbeing.
- Property neglected, evidence of hoarding beginning to impact on health / safety
- Where animals in property are impacting on the environment with risk to health

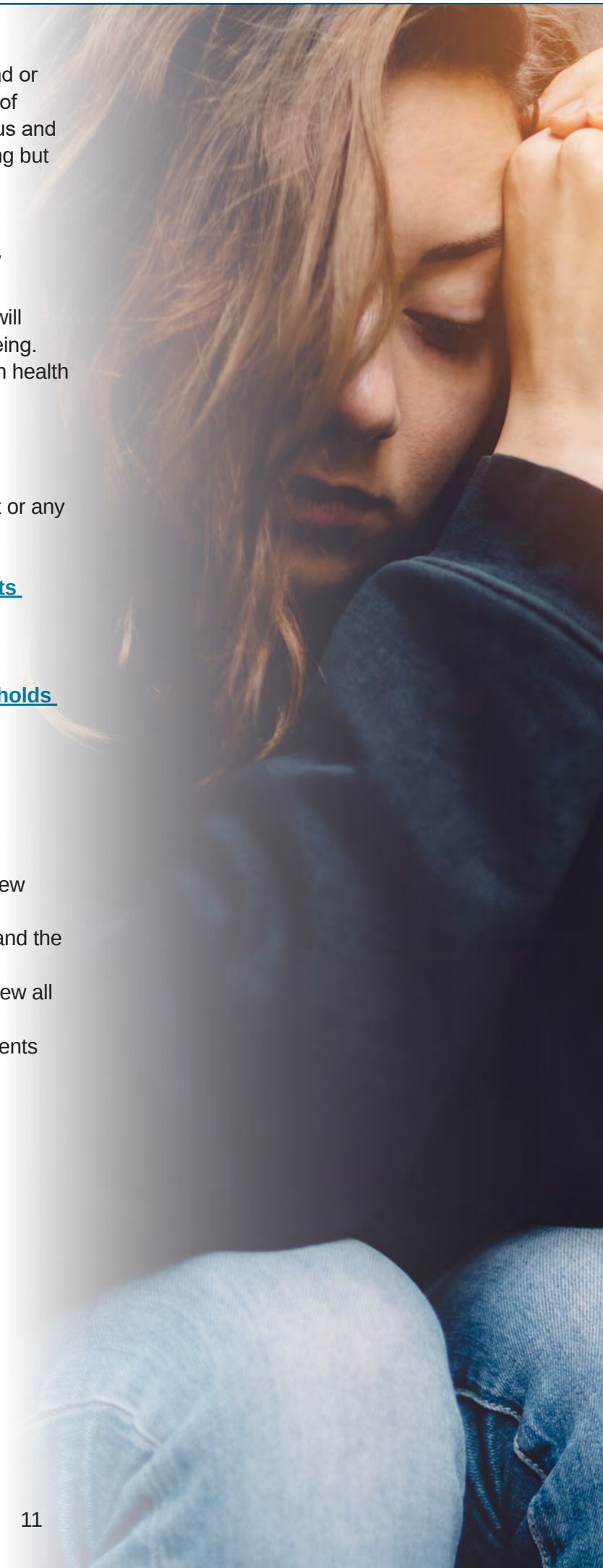
High Risk: Incidents at this level MUST be reported to your Designated Safeguarding Lead or Line Manager within 24 hours. There is a risk of significant harm. This includes the most serious and challenging presenting circumstances, including but not exclusive to:

- Living in squalid or unsanitary conditions
- There is extensive structural deterioration / damage in the property causing risk to life
- Refusal of health / medical treatment that will have a significant impact on health / wellbeing.
- High level of clutter / hoarding impacting on health and wellbeing, including fire hazard
- Behaviour poses risk to self and others
- Life is in danger without intervention
- Appearance of malnourishment
- The individual is not accepting any support or any plans to improve the situation

Please refer to Cumbria Safeguarding Adults Board Procedures for more information on reporting and timescales.

Cumbria Safeguarding Adults Board Thresholds Tool and Guidance provides examples of possible actions that should be considered at every stage. These are offered as examples only and should not be considered exhaustive.

It is important that following any incident a review should be undertaken and an action plan put in place to ensure lessons are learnt and the risk of the incident being repeated is reduced. It is also important to review all incidents in the context of those previously recorded as a series of similar incidents may meet the criteria for referral into safeguarding.



9. Possible responses

9.1 Responses applicable to all levels of risk/harm

Find out what the adult's views are and what they would like to happen

In line with person-centered and outcome-focused approaches to safeguarding, details must be sought of what the adult at risk's views are and what they would like to happen. Safeguarding adult's plans and care plans are much more likely to succeed if the person has been involved in developing it.

Consideration should also be given to gathering the views of other people who are important in the person's life, where this is consented to by the adult at risk.

If a person lacks mental capacity, the views and wishes of the adult at risk (and their representatives) should be gathered as part of the best interest decision(s).

Find out if the adult at risk has mental capacity

Decisions which could be assessed include:

- In relation to accommodation (e.g. to remain at home);
- In relation to care and treatment (e.g. to refuse care, support or medical treatment);
- Keeping safe (e.g. to seek help/support).

Take a creative and flexible approach

Think about different ways of engaging the person in support to reduce the risks around self-neglect. This could involve thinking about who might be the best professional to get the best engagement with the person or exploring different service options that may reduce risks.

Be persistent

Because of the nature of self-neglect cases, the likelihood is that the person may refuse services or support when this is first offered. In conjunction with being flexible and creative, professionals may need to repeatedly try to work with a person to reduce risks. Non-engagement at first contact should not result in no further action being taken at a later date or professionals going back to the person and offering further help or support (particularly where risks may have changed or increased).

Work on a multi-agency basis

There should be effective coordination of any actions that need to be taken across all agencies by the key professional involved. Information about risk and actions should be shared with relevant agencies, in most circumstances with consent of the adult at risk. Multi-agency action is not limited to that taken under safeguarding adults procedures.

Ensure you have made thorough and accurate recordings

Identification of risks and actions taken to manage or minimise risk should be fully documented in professional notes and, where appropriate, a risk assessment and risk management document should be completed. Recording should fully evidence and support any decision making and appropriate monitoring arrangements should be considered and implemented if necessary. This is particularly important where safeguarding adult's procedures have not been used and therefore as a result safeguarding adult's documentation will not have been completed.

Consider risks to others

You must consider whether anyone else is at risk as a result of the individual's self-neglect. This may include children or other adults with care and support needs. Whilst your actions may be limited in relation to the individual themselves, you may have a duty to take action to safeguard others.

9.2 Responses applicable where identified as low risk

Where presenting risks of self-neglect have been identified as "low", the following actions should be considered by the most appropriate practitioner(s). An up-to-date assessment of the adult's needs should be obtained where applicable or where none exist, the need for appropriate assessments should be considered. Future monitoring should always consider escalation to higher risk categories and use of safeguarding adult's procedures.

Information, advice, and signposting

- Information / advice about risks and what options there are for reducing risks
- Promoting self-help (asking for help if needed, keeping appointments)
- Information / advice about health or care needs
- Financial information / advice
- Signposting to universal services (e.g., GP, Fire Service, Leisure Services, and Libraries)

Assessment and services

- Tenancy support
- Floating support
- Social care assessment / re-assessment / review
- Provision of social care services (long-term or short-term Reablement) including direct payment / personal budget
- Health assessment / re-assessment / review
- Health treatment / intervention (including action intervention under the Mental Health Act 1983)
- Fire alarm fitted; sprinkler system fitted
- Change of accommodation.

Regular, low-level concerns can amount to a far higher level of concern which then require more in-depth investigation under safeguarding adult's procedures. Where you are faced with repeated low-level concerns. In Cumbria, if there have been three low level concerns in a six month period this should result in a safeguarding adult's enquiry commencing, and progressing until at least Stage 2 "Reporting a Concern".

9.3 Responses applicable where identified as medium risk

Where presenting risks of self-neglect have been identified as significant or very significant, safeguarding adults' procedures should be used and a safeguarding adults enquiry should be coordinated subject to the consent (or appropriate over-riding of consent) of the adult at risk.

The safeguarding adult's enquiry should result in a Safeguarding Adults Plan being devised which could include any of the actions / interventions described above when responding to low level harm (refer to section 8.2). In self-neglect cases, the safeguarding adult's enquiry should include specific consideration of:

- The mental capacity of the adult at risk in relation to specific decisions.
- Involvement of the adult at risk (and / or their family / a representative), including in the development of a Safeguarding Adults Plan;

- A review of current arrangements for providing care and support. Does there need to be an assessment / reassessment / review? This should include any informal carer arrangements;
- Options for encouraging engagement with the adult at risk (e.g. which professional is best placed to successfully engage? Who would the adult respond most positively to?);
- Any legal options available to safeguard the adult (see appendix 1). Legal advice should be sought;
- Whether there are any other people at risk (including children) and what action needs to be taken if this is case;
- A contingency plan, should the agreed Safeguarding Adults Plan fail;
- How agencies / professionals will keep in regular communication about any changes or significant events / incidents;
- Support for front-line staff delivering services to the individual (e.g. in responding to a refusal of services).

As with all safeguarding adults' enquiries, it is important that details of actions and decision-making are clearly recorded.

Where the adult at risk does not consent to the action under safeguarding adults' procedures, professionals will need to consider:

- Whether it would be appropriate to override consent; and / or
- Whether the individual has the mental capacity to consent; and / or
- Whether the individual would be accepting of any other support / intervention outside of safeguarding adults' procedures (refer to section 8.2).

9.4 Responses applicable where identified as high risk

Where presenting risks of self-neglect have been identified as critical, safeguarding adult's procedures should be used and a safeguarding adult's enquiry should be coordinated. Attempts should still be made to seek the adult at risk's consent for the safeguarding adult's enquiry to take place, however where this is not provided consent should be overridden given the seriousness of the concerns. This is so that the concerns can be fully explored on a multi-agency basis and reassurance can be provided that all possible options to manage risk have been attempted.

All safeguarding adults concerns should be raised with the **Adult Social Care Single Point of Access** in line with **Safeguarding Adults Procedures.**

Safeguarding adults' procedures provide a formal, multi-agency framework for sharing information assessing and managing risk. If the level of risk or harm is deemed high risk the enquiry must progress to at least Stage 4.

The safeguarding adult's enquiry should result in a Safeguarding Adults Plan being devised which could include any of the actions or interventions described above. In self-neglect cases, the safeguarding adult's enquiry should include specific consideration of:

- The mental capacity of the adult at risk in relation to specific decisions
- Involvement of the adult at risk (and/or their family/a representative), including in the development of a Safeguarding Adults Plan
- A review of current arrangements for providing care and support. Does there need to be an assessment/reassessment or review? This should include any informal carer arrangements.
- Options for encouraging engagement with the adult at risk (e.g. which professional is best

placed to successfully engage? Who would the adult respond most positively to?)
- Any legal options available to safeguard the adult. Legal advice must be sought when required
- Whether there are any other people at risk (including children) and what action needs to be taken if this is case
- A contingency plan, should the agreed Safeguarding Adults Plan fail
- How agencies or professionals will keep in regular communication about any changes or significant events/incidents
- Escalation and notification to senior managers of the case
- Support for front-line staff delivering services to the individual

10. Ending involvement

Ideally work will be carried out with individuals, which will result in their situation being improved to a situation where it is deemed to be safe enough. This will be based on decisions made with the individuals themselves, their families / carers (if appropriate) and any agencies involved.

There may come a point at which all options have been exhausted, and no improvement has been established. In cases where a critical level of harm has been encountered and it has not been possible to reduce risks, senior management must be informed and consulted.

Where safeguarding adult's procedures have been used, a decision to end involvement must be made on a multi-agency basis and will be based on an individual risk assessment.

The shared decision will be recorded highlighting any monitoring that may be in place. It will also be clear that future concerns will be reassessed if the person is agreeable and motivated to become involved in the future or if risk increases.

Where safeguarding adults' procedures have not been used (because the level of risk / harm is deemed to be low or due to a lack of consent) a decision to end involvement should be communicated with the other agencies / services involved.

Appendix 1 – Legal options

There are many legislative responsibilities placed on agencies to intervene in or be involved in some way with the care and welfare of adults who are believed to be vulnerable.

It is important that everyone involved thinks pro-actively and explores all potential options and wherever possible, the least restrictive option e.g. a move of the person permanently to smaller accommodation where they can cope better and retain their independence.

The following outline a summary of the powers and duties that may be relevant and applicable steps that can be taken in cases of dealing with persons who are self-neglecting and / or living in squalor. The following is not necessarily an exhaustive list of all legislative powers that may be relevant in any case. Cases may involve use of a combination of the following exercise of legislative powers.

Environmental Health

Environmental Health Officers in the Local Authority have wide powers and duties to deal with waste and hazards. They will be key contributors to cross departmental meetings and planning, and in some cases e.g. where there are no mental health issues, no lack of capacity of the person concerned, and no other social care needs, then they may be the lead agency and act to address the physical environment.

Remedies available under the **Public Health Acts 1936 and 1961** include:

- Power of entry / warrant to survey / examine (sections 239 / 240)
- Power of entry / warrant for examination / execution of necessary work (section 287)
- Enforcement notices in relation to filthy / verminous premises (section 83) – applies to all tenure.

Remedies available under the **Environmental Protection Act 1990** include:

- Litter clearing notice where land open to air is defaced by refuse (section 92a)
- Abatement notice where any premise is in such a state as to be prejudicial to health or a nuisance (sections 79/80)

Other duties and powers exist as follows:

- **Town and Country Planning Acts** provide the power to seek orders for repairs to privately owned dwellings and where necessary compulsory purchase orders.
- The **Housing Act 2004** allow enforcement action where either a category 1 or category 2 hazard exists in any building or land posing a risk of harm to the health or safety of any actual or potential occupier or any dwelling or house in multiple occupation (HMO). Those powers range from serving an improvement notice, taking emergency remedial action, to the making of a demolition order.
- Local Authorities have a duty to take action against occupiers of premises where there is evidence of rats or mice under the **Prevention of Damage by Pests Act 1949.**
- The **Public Health (Control of Disease) Act 1984** Section 46 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.

Housing – landlord powers

These powers could apply in Extra Care Sheltered Schemes, Independent Supported Living, private-rented or supported housing tenancies. It is likely that the Housing provider will need to prove the tenant has mental capacity in relation to understanding their actions before legal action will be possible. If the tenant lacks capacity, the Mental Capacity Act 2005 should be used.

In extreme cases, a landlord can take action for possession of the property for breach of a person's tenancy agreement, where a tenant fails to comply with the obligation to maintain the property and its environment to a reasonable standard. This would be under either Ground 1, Schedule 2 of the **Housing Act 1985** (secure tenancies) or Ground 12, Schedule 2 of the **Housing Act 1988** (assured tenancies).

The tenant is responsible for the behaviour of everyone who is authorised to enter the property.

There may also be circumstances in which a person's actions amount to anti-social behavior under the **Anti-Social Behaviour, Crime and Policing Act 2014.** Section 2(1)(c) of the Act introduces the concept of "housing related nuisance", so that a direct or indirect interference with housing management functions of a provider or local authority, such as preventing gas inspections, will be considered as anti-social behaviour. Injunctions, which compel someone to do or not do specific activities, may be obtained under Section 1 of the Act. They can be used to get the tenant to clear the property or provide access for contractors. To gain an injunction, the landlord must show that, on the balance of probabilities, the person is engaged or threatens to engage in antisocial behaviour, and that it is just and convenient to grant the injunction for the purpose of preventing an engagement in such behaviour. There are also powers which can be used to require a tenant to cooperate with a support service to address the underlying issues related to their behavior.

Mental Health Act 1983

Sections 2 and 3 of the Mental Health Act 1983

Where a person is suffering from a mental disorder (as defined under the Act) of such a degree, and it is considered necessary for the patient's health and safety or for the protection of others, they may be compulsorily admitted to hospital and detained there under Section 2 for assessment for 28 days. Section 3 enables such a patient to be compulsorily admitted for treatment for up to 6 months, this can then be renewed for a further 6 months and then yearly if necessary.

Section 7 of the Mental Health Act 1983 – Guardianship

A Guardianship Order may be applied for where a person suffers from a mental disorder, the nature or degree of which warrants their reception into Guardianship (and it is necessary in the interests of the welfare of the patient or for the protection of other persons.) The person named as the Guardian may be either a local social services authority or any applicant.

A Guardianship Order confers upon the named Guardian the power to require the patient to reside at a place specified by them; the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training; and the power to require access to the patient to be given, at any place where the patient is residing, to any registered medical practitioner, approved mental health professional or other person so specified.

In all three cases outlined above (i.e. Section 2, 3 and 7) there is a requirement that any application is made upon the recommendations of two registered medical practitioners.

Section 135 Mental Health Act 1983

Under Section 135, a Magistrate may issue a warrant where there may be reasonable cause to suspect that a person believed to be suffering from mental disorder, has or is being ill-treated, neglected or kept otherwise than under proper control; or is living alone unable to care for themselves. The warrant, if made, authorises any constable to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove them to a place of safety.

Section 135 lasts 72 hours and is for the purpose of removing a person to a place of safety with a view to the making of an assessment regarding whether or not Section 2 or 3, or 7 of the Mental Health Act should be applied.

Section 136 Mental Health Act 1983

Section 136 allows police officers to remove adults who are believed to be “suffering from mental disorder and in immediate need of care and control” from a public place to a place of safety for up to 72 hours for the specified purposes. The place of safety could be a police station or hospital.

Community Treatment Orders (CTOs)

If a person has been in hospital under the Mental Health Act, a responsible clinician (usually a Psychiatrist) can arrange for a person to have a Community Treatment Order (CTO). This means the person will have supervised treatment when they leave hospital. The person will need to follow the conditions of a CTO. The conditions aim to make sure the person gets the appropriate treatment and can also be used to try and protect the person from harming themselves or other people. Conditions can include where the person will live or where they will go to get treatment. A person can be brought back to hospital if they break the conditions of their CTO.

Mental Capacity Act 2005

The powers to provide care to those who lack capacity are contained in the Mental Capacity Act 2005. Professionals must act in accordance with guidance given under the Mental Capacity Act Code of Practice when dealing with those who lack capacity and the overriding principal is that every action must be carried out in the best interests of the person concerned.

Where a person who is self-neglecting and / or living in squalor does not have the capacity (and this has been assessed) to understand the likely consequences of refusing to cooperate with others and allow care to be given to them and / or clearing and cleaning of their property a best interest decision can be made to put in place arrangements for such matters to be addressed. A best interest decision should be taken formally with professionals involved and anyone with an interest in the person’s welfare, such as members of the family.

The Mental Capacity Act 2005 provides that the taking of those steps needed to remove the risks and provide care will not be unlawful, provided that the taking of them does not involve using any methods of restriction that would deprive that person of their liberty. However, where the action requires the removal of the person from their home then care needs to be taken to ensure that all steps taken are compliant with the requirements of the Mental Capacity Act. Consideration needs to be given to whether any steps to be taken require a Deprivation of Liberty Safeguards application.

Where an individual resolutely refuses to any intervention, will not accept any amount of persuasion, and the use of restrictive methods not permitted under the Act are anticipated, it will be necessary to apply to the Court of Protection for an order authorising such protective measures. Any such applications would be made by the person’s care manager who would need to seek legal advice and representation to make the application.

Emergency applications to the Court of Protection

You can apply to the Court of Protection to get an urgent or emergency court order in certain circumstances, e.g., a very serious situation when someone's life or welfare is at risk and a decision has to be made without delay. You will not get a court order unless the court decides it's a serious matter with an unavoidable time limit.

Where an emergency application is considered to be required, relevant legal advice must be sought.

Power of entry

The Police can gain entry to a property if they have information that a person inside the property was ill or injured with the purpose of saving life and limb. This is a power under Section 17 of the Police and Criminal Evidence Act 1984.

Inherent Jurisdiction

There have been cases where the Courts have exercised what is called the 'inherent jurisdiction' to provide a remedy where it has been persuaded that it is necessary, just and proportionate to do so, even though the person concerned has mental capacity.

In some self-neglect cases, there may be evidence of some undue influence from others who are preventing public authorities and agencies from engaging with the person concerned and thus preventing the person from addressing issues around self-neglect and their environment in a positive way.

Where there is evidence that someone who has capacity is not necessarily in a position to exercise their free will due to undue influence then it may be possible to obtain orders by way of injunctive relief that can remove those barriers to effective working. Where the person concerned has permitted another to reside with them and that person is causing or contributing to the failure of the person to care for themselves or their environment, it may be possible to obtain an Order for their removal or restriction of their behaviour towards the person concerned.

In all such cases legal advice should be sought.

Animal welfare

The Animal Welfare Act 2006 can be used in cases of animal mistreatment or neglect. The Act makes it against the law to be cruel to an animal and the owner must ensure the welfare needs of the animal are met. Powers range from providing education to the owner, improvement notices, and fines through to imprisonment. The powers are usually enforced by the RSPCA, Environmental Health or DEFRA.

Fire

The fire brigade can serve a prohibition or restriction notice to an occupier or owner which will take immediate effect (under the Regulatory Reform (Fire Safety) Order 2005). This can apply to single private dwellings where the criteria of risk to relevant persons apply.