Cheshire East Safeguarding Adults Board

Multi-Agency Complex Safeguarding Policy and Guidance

Review – July 2023

All enquires – complexsafeguarding@cheshireeast.gov.uk

Multi-Agency Complex Safeguarding Policy and Guidance

Introduction

The purpose of this framework is to provide a process guide for all Cheshire East Safeguarding Adults Board (CESAB) partner agencies on how to respond when concerns of Complex Safeguarding including self-neglect and Hoarding have been identified.

Self-neglect and compulsive hoarding are highly complex and require a collaborative and integrated approach. This guidance aims to ensure that practitioners are equipped with methods of working with people in a manner that is meaningful ensuring a co-ordinated multi-agency partnership working.

The Aim of the Policy and Practice Guidance

The purpose of this policy and practice guidance is to promote the persons wellbeing, to reduce risk and where possible prevent serious injury or death of individuals who appear to be self-neglecting/hoarding by ensuring that:

- Individuals are empowered as far as possible to retain choice and control whilst also enabling them to understand risk and the implications of their actions and/or behaviours to themselves or others
- There is a shared, multi-agency understanding and recognition of the issues including those involved in working with individuals who self-neglect and hoard
- There is effective multi-agency working and practice and concerns receive appropriate prioritisation
- That all agencies and organisations uphold their duties of care and share information appropriately
- There is a proportionate response to the level of risk to self and others
- Agencies promote a person-centred approach which supports the right of the individual to be treated with respect and dignity, and to be in control of, and as far as possible, to lead an independent life
- There is a commitment to raise awareness about Self-Neglect within Communities

- Agencies will be able to respond to situations of self-neglect, hoarding and high risk using proportionate and relevant legislation. Actions and decisions will be recorded to promote transparency and accountability

- All agencies will work together to support the Adult at Risk

Care Act 2014 – Self Neglect and Safeguarding: how to respond to self-neglect cases

The Care Act 2014 statutory guidance has formally recognised self-neglect as a category of abuse and neglect, which could lead to the raising of a safeguarding concern. The enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom.

Under the Care Act the term 'self-neglect' refers to an unwillingness or inability to care for oneself and/or one's environment. It encompasses a wide range of behaviours, including hoarding, living in squalor, and neglecting self-care and hygiene. However, this is a difficult issue to address in practice, not least because people who self-neglect may not recognise the risks that their lifestyle presents. There are questions around personal choice and how to provide help and support to someone who may not want it. Practitioners also need to work to make safeguarding personal, and it is important to understand each individual's situation and wishes and establish ways to work effectively with them.

Self-neglect, particularly where people with mental capacity refuse care and support, has emerged as a matter for widespread concern, and has featured in a number of serious case reviews. Its inclusion as part of the definition of abuse and neglect in the statutory guidance to the Care Act 2014 has heightened interest in how beneficial outcomes can be achieved. Factors that may lead to self-neglect being overlooked is the perception that this is a person's 'lifestyle choice' or an individual with mental capacity is making unwise decisions or withdrawing from agencies but continuing to be at risk of significant or serious harm.

It should be noted that self-neglect may not always prompt a section 42 enquiry. Practitioners should consider an individual's circumstances on a case by case basis. Partner Agencies need to consider whether the circumstances fit the Care Act criteria for raising a Safeguarding Concern with the Local Authority: Self-neglect differs from other safeguarding concerns as there is no perpetrator of abuse, however, abuse cannot be ruled out as a purpose for becoming self- neglectful.

People may self-neglect and/ or hoard for a variety of reasons:

- Unmet care and support needs
- Inability to maintain own self-care and household chores
- Chronic use of substance/ alcohol impacting on executive functioning
- Parents who hoard (learnt behaviours)
- Childhood neglect/ childhood trauma/ adverse childhood experiencing
- The impact of abuse or neglect
- The impact of experiencing/ witnessing domestic abuse
- Life changing events e.g. loss of job, bereavement, loss of social status, loss of accommodation etc.
- The loss of a strongly held value system
- The loss of independence as a result of an accident, trauma, major ill health or frailty

Under Section 42 of the Care Act 20142, Safeguarding duties apply to an adult who meets the following criteria:

- 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 himself or herself against the abuse or neglect or the risk of it

- All safeguarding concerns must be reported to the Local Authority **regardless of whether the person has consented to this**; the Local Authority will then assess how to proceed forward taking into account the person's wishes and the circumstances of the concern.

Making Safeguarding Personal is about seeing people as experts in their own lives and working alongside them in a way that is consistent with their rights and capacity and that prevents harm occurring wherever possible. Safeguarding should be person-led, and outcome focused, engaging the adult at risk in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. Most importantly it is about listening and providing the options that support individuals to help themselves.

Whilst every effort must be made to work with adults experiencing abuse or neglect within the present legal framework, there will be some occasions on which adults at risk will choose to remain in dangerous situations. It may be that even after careful scrutiny of the legal framework, professionals will conclude that they have no power

to gain access to a particular adult at risk. Professionals may find that they have no power to remove the adult from a situation of risk or intervene positively because the adult refuses all help or wants to terminate contact with the professionals. In these extremely difficult circumstances, professionals will be expected to continue to exercise as much vigilance as possible.
Section 135 (1) of the Mental Health Act is the power to remove a person from a dwelling if it is considered they have a mental disorder and that they may be in need of care and attention. The process is for the Approved Mental Health Professional to present evidence at a Magistrates Court in order to obtain a warrant which will authorise the Police, an Approved Mental Health Professional and a registered medical practitioner to gain entry to the premises in order for assessment to take place there or for the person to be removed to a place of safety.

Duty of Care

Safeguarding adults at risk of harm often creates a tension for professionals between promoting an adult's autonomy and their duty to try to protect them from harm. All professionals working with adults at risk should be aware of their duty of care in cases of self-neglect, even when the individual has been assessed to have mental capacity in relation to the relevant decisions. Respect for autonomy and self-determination must always be balanced against the duty of care and promotion of dignity and wellbeing.

The duty of care can be summarised as the obligation to exercise a level of care towards an individual, as is reasonable in all circumstances, by taking into account the potential harm that may reasonably be caused to that individual or their property. It means supporting an individual to achieve their chosen outcomes while maximising safety as far as practicable.
Respect for autonomy does not mean abandonment, particularly for those individuals deemed to have mental capacity. Working with self-neglecting adults often requires persistence, building relationships over a long period rather than time-limited involvement. It is important to glean information from other agencies as well as offering creative solutions to the individual.

Self-Neglect Key Indicators

There are many indicators which, when combined, may indicate the presence of self-neglect. There is no clear point at which lifestyle patterns become self-neglect, and the term can apply to a wide range of behaviour and different degrees of self-neglect. The following list is not exhaustive.

- Living in very unclean, sometimes verminous circumstances, such as living with a toilet completely blocked with faeces

- Neglecting household maintenance, and therefore creating hazards within and surrounding the property

- Poor diet and nutrition. For example, evidenced by little or no food in the fridge, or what is there, being mouldy
- Obsessive hoarding
- Declining or refusing prescribed medication and / or other community healthcare support
- Refusing to allow access to health and / or social care professionals in relation to personal hygiene and care
- Refusing to allow access to other organisations with an interest in the property, for example, staff working for utility companies (water, gas, electricity), housing services
- Repeated episodes of anti-social behaviour – either as a victim or source of risk
- Refusing to allow access to health and / or social care professionals in relation to personal hygiene and care
- Total lack of personal hygiene resulting in poor healing / sores, long toe nails, unkempt hair, uncared for facial hair, body odour, unclean clothing
- Isolation; either of an individual or of a household or family unit
- Failure to take medication
- Repeated referrals to Environmental Health
- Being unwilling to attend external appointments with professionals in social care, health or other organisations (such as housing)

Contributory Factors

Self-neglect involves the complex interplay of physical, mental, social, personal and environmental factors, all of which must be explored in order to understand the meaning of self-neglect in the context of each individual's life experience. This will assist professionals to intervene in the most applicable way while assisting individuals to recognise and address the root causes of their circumstances. This list is not exhaustive.

Physical health issues

Impaired physical functioning

Pain

Nutritional deficiency

Mental health issues

Depression

Frontal Lobe dysfunction

Impaired cognitive functioning

Substance misuse

Alcohol

Other drugs

Psychosocial factors

Bereavement/Loss/Divorce

Diminished social networks; limited economic resources

Poor access to social or health services

Personality traits; traumatic histories/ life-changing events; perceived self- efficacy.

Psychological Impact

Avoid letting people into their home or have difficulty answering the door – meaning individuals don't have visitors or don't get repairs done, which could lead to housing problems

Individuals distancing themselves from other people, because you don't want them to know about their situation or because they say or do things that don't feel helpful

The individual feel ashamed or lonely, which could make them feel very isolated or affect a person's self-esteem

Hoarding

Hoarding disorder was previously considered a form of Obsessive-Compulsive Disorder (OCD). Hoarding is now considered a standalone mental disorder and is included in the 5th edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) 2013 but does not appear in the ICD 10 (World Health Organisation, 2010). However, hoarding can also be a symptom of other mental disorders. Hoarding disorder is distinct from the act of collecting and is also different from people whose property is generally cluttered or messy. It is not simply a lifestyle choice. The main difference between a hoarder and a collector is that hoarders have strong emotional attachments to their objects which can be well in excess of the real value.

Hoarding Toolkit -

Hoarding Toolkit v2 Mar 2021.docx

Please refer to Appendix 1 (page 14) for legislation relevant in working with self-neglect

Mental Capacity and self-neglect

When concerns about self-neglect are raised, there is a need to be clear about the person's mental capacity in respect to the key decisions in relation to the proposed intervention.

If there are any doubts about the person's mental capacity, especially regarding their ability to 'choose' their living conditions or refuse support, then where possible a mental capacity assessment should be undertaken. In extreme cases of self-neglect and/or hoarding behaviour, the very nature of the environment should lead professionals to question whether the client has capacity to consent to the proposed action or intervention and trigger an assessment of that person's mental capacity.

The professional responsible for undertaking the capacity assessment will be the professional who is proposing the specific intervention or action and is referred to as the 'decision maker'. Although the decision maker may need to seek support from other professionals in the multidisciplinary team, they are responsible for making the final decision about a person's capacity.

Strong emphasis needs to be placed by practitioners on the importance of inter-agency communication, collaboration and the sharing of risk. The autonomy of an adult with capacity should be respected including their right to make what others might consider to be an "unwise decision". However, this does not mean that no further action regarding the self-neglect is required. Efforts should be directed to building and maintaining supportive relationships through which services can in time be negotiated.

The Mental Capacity Act (MCA) 2005 provides a statutory framework for people who lack the capacity to make decisions by themselves. Professionals are required to pay regard to the MCA. The Act has five statutory principles which underpin, and are legal requirements of, the Act:

1. A person must be assumed to have capacity unless it is established that he lacks capacity.

2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.

3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.

4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

A person may lack capacity if at the time they are unable to make a decision for themselves in relation to the matter, because of an impairment or disturbance in the function of the mind or brain that is permanent or temporary.

Any mental capacity assessment carried out in relation to self-neglect and/ or hoarding behaviour must be time and decision specific and relate to a specific intervention or action. If the person is assessed as not having mental capacity to make decisions in relation to their self-neglect, then any decisions should be made following the best interests process, which includes taking into account the person's views and taking the least restrictive action. Due to the complexity of such cases, there must be a Best Interests Meeting, chaired by a manager or other senior or experienced professional from the appropriate organisation and appropriately recorded in formal minutes. Additionally, consideration should be given as to whether an Independent Mental Capacity Advocate (IMCA) should be instructed. Fluctuating capacity should be considered and evidenced.

In particularly challenging and complex cases, it may be necessary for the organisation to seek legal advice in order to refer to the Court of Protection (COP) to make the best interests decision.

Executive Capacity

Capacity assessments may not take full account of the complex nature of capacity. Self-neglect and adult safeguarding and the difference between capacity to make a decision (decisional capacity) and capacity to actually carry out the decision (executive capacity)

It is good practice to consider or assess whether the person has the capacity to act on a decision that they have made (executive capacity). An individual who self neglects may have decisional capacity but may lack the ability to execute their decision, hence the requirement to assess both decisional and executive capacity.

39 Essex Street -Carrying Out and recording capacity assessments

https://1f2ca7mxjow42e65q49871m1-wpengine.netdna-ssl.com/wp-content/uploads/2021/05/Mental-Capacity-Guidance-Note-Capacity-Assessment-May-2021.pdf

CE Mental Capacity Policy –

Mental Capacity Act Policy May 2022 final.

PRACTICE:
Multi-Disciplinary Team (MDT) Meeting/Professionals Meeting

A Multi-Agency Meeting approach should be adopted where there are significant concerns about the individual's risk of serious harm, injury or death. The organisation who is best placed to lead on organising this is one with a statutory responsibility: for example, Local Authority, Housing, CCG, Environmental Health.

Agencies you should consider attending the MDT are:

- Fire service
- GP/District nurse/other health professionals
- Police
- Housing
- Advocacy services
- Drugs and Alcohol services
- Mental health services

In line with sections 6 and 7 of the Care Act 2014, all partner agencies will engage and cooperate when this is requested by the lead agency as required; and where an agency is the lead agency depending on the circumstances of each case, they take responsibility for coordinating multi-agency partnership working.

Consent

Wherever possible the person should be informed by the referring agency that this process is being followed and invite the person to the meeting. It is important to capture the persons wishes, feelings and outcomes they would like to see. However, it is recognised that they may not wish, or be able, to attend; in which case the referring agency and/or advocate should ensure that the person's views are captured.
It is recognised that refusal to engage with services may be a concern and therefore referrals to relevant organisations should **not** be delayed because it is impossible or difficult to engage with the individual. Consent should be sought, but a decision to follow the framework without consent may be justified where the person and/or others are at **risk of serious harm, injury or death**. This decision should be recorded on the person's records together with the reasons for that decision

Referrals to SAB partner agencies of high-risk cases should not be delayed because it has not been possible to effectively engage with the individual.

The responsibility of the MDT/Professionals meeting is to:

- Provide expertise to effectively review all information related to the individual
- Consider the person’s circumstances and their views, wishes and feelings

- Consider using a SOS (signs of safety approach) ie what is working well, what are we worried about, what needs to change?
- Ensure there is full multi-agency sign up and engagement
- Consider risk assessments and risk management plan
- Look at strategies which may reduce risk and improve outcomes for the person and services
- Consider the support needs of the individual as well as the needs of the organisations involved to be accountable
- Consider whether there is a requirement to undertake further assessments and identify which SAB partner agency would need to undertake these and identify who will be responsible for making the relevant referral, with identified timescales agreed to prevent case drift
- Consider whether legal advice is required (each organisation would be responsible for sourcing/funding this following their own procedures)
- Agree a plan of action for the person, including the consideration of alternative or creative options to enable professionals and/or others to encourage engagement with the person at risk.
- Agree timescales for actions
- Record the agreed outcome
- Agree a review period where necessary
- Share information with the adult concerned and organisations involved in the meeting
- Monitor and review the agreed plan of action where necessary
- Arrange for any further meeting(s) as required
- Escalate the risks within the agencies involved to support a shared approach to risk assessment.

It is recognised that the dilemma of managing the balance between protecting adults at risk from the potential consequences of serious self-neglect, against their right to self-determination, is a challenge for all services.

It should be agreed at the MDT meeting who will feedback the outcome and any proposed plan of action with the person and seek their consent to the plan, as well as a timescale for this discussion.

Actions following the MDT/Professionals meeting

The meeting records should include a rationale of the decision-making process and actions. As outlined above, the identified agency/ professionals/person should discuss the proposed plan of action with the individual in order to try to engage the person with services.

The plan of action will have incorporated the next steps to be taken, in the event that the individual does not engage with the proposed actions. A review of the case will be required – process to be agreed in the plan of action.
It would be good practice for the agency leading on trying to engage the individual to record refusal to accept the plan of action, document ongoing risks (including current mental capacity assessment).

Should the adult at risk continue to refuse support, and Professionals are concerned that without intervention the individual is at ***significant*** risk of harm/ **or death,** these cases will be reviewed by the High Risk/ Self-Neglect Forum. **(link to the application to the High-Risk Safeguarding Forum)**

Information Sharing

Information sharing is covered by the SAB Multi Agency Information Sharing Policy, the Care Act 2014, the Care and Support Statutory Guidance ,Data Protection Act 2018 and the General Data Protection Regulations 2018. Practitioners must **always** seek the consent of the adult at the heart of the concern before taking action or sharing information. However, it should be explained that consent could be overridden if the risk is significant (serious harm, injury or death).
If there is any doubt about whether to share information, advice should be obtained from your organisation's information governance lead. Things to consider are:

- Adequate recording; has the consent of the adult been obtained and if not why not
- What information was shared and with whom, how was the request received and recorded, and how was the decision made to share the information
- If third party information is involved, was consent obtained and if not, which exemptions are applied
- All agencies involved must follow the appropriate statutes and guidance.

Under the General Data Protection Regulations, organisations have the responsibility to ensure that personal information is processed lawfully and fairly. All adults have a right to view any information held about them.

Practitioners should consider this when they are recording information about the adult.

Resources:

https://www.cloudsend.org.uk/
https://www.hoardinguk.org/

Multi Agency Risk Assessment

M-A safeguarding Risk Assessment.docx

APPENDIX 1

Legislation relevant in working with self-neglect

A wide range of legislation provides powers and duties that may be relevant in cases of self-neglect. The details given below do not represent a definitive statement of legal rule. They are merely a starting point and must be amplified by further access to legal resources and advice in any individual case.

Key statutes

The Care Act 2014 and the Mental Capacity Act 2005 provide the statutory foundations for work with self-neglect.

Principles

Both statutes first provide principles that must underpin practice.

CARE ACT 2014
s.1: The general duty of a local authority to promote the wellbeing of any individual in respect of whom they are carrying out any of their functions under the Act.
Mental Capacity Act Principles
s1 The five statutory principles are: (1) A person must be assumed to have capacity unless it is established that he lacks capacity. (2) A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success. (3) A person is not to be treated as unable to make a decision merely because he makes an unwise decision. (4) An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests. (5) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Human rights and equality

Two further statutes provide a broad framework for the local authority to carry out its functions in ways that promote human rights and equality.

EQUALITY ACT 2010
The Equality Act('the Act') protects from unlawful discrimination people with protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It also provide the public sector equality duty (s.149), under which public authorities must have due regard to the need to: • Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act • Advance equality of opportunity between people who share a protected characteristic and those who do not. • Foster good relation between people who share a protected characteristic and those who do not .
HUMAN RIGHTS ACT 1998
The Human Rights Act incorporates the European Convention on Human Rights into domestic law. Thus, all public authorities must act in ways that are compatible with Convention rights, and indeed must positively promote them. Particularly important in relation to self-neglect are: • Article 3: right to protection from inhuman and degrading treatment. This is an absolute right. • Article 5: right to liberty and security of the person. This is a limited right; liberty may be curtailed in certain circumstances (e.g. criminal conviction or unsoundness of mind) provided a procedure prescribed by law is used to do so. • Article 8; right to respect for private and family life. This is a qualified right, and interference may, where lawful, legitimate and necessary, be justified to protect health or safety and the rights and freedoms of others. The Convention also provides the important principle of proportionality: that where a convention right is interfered with, this must be for a legitimate aim, done according to law, and the measures used must be suitable, necessary and reasonable.

The Care Act 2014

The Care Act 2014 provides the local authority with core mandates for assessment.

Section 42 Safeguarding Enquiry	Duty to make enquiries (or cause enquiries to be made) where an adult with care and support needs is at risk of abuse and neglect and, as a result of the care and support

	needs, is unable to protect themselves. The purpose is to determine whether any action should be taken to help and protect the adult, and, if so, what and by whom. While not mentioned in the Act itself, self-neglect is listed in the Care and support statutory guidance ('the statutory guidance ')Department of Health and Social Care (updated 21 April 2021) as one of the circumstances that constitute 'abuse and neglect', thus engaging s.42 enquiry duties.
Section 9 Assessment of an adult's needs for care and support **Section 10** Assessment of a carer's needs for support	Duty to assess the needs of an adult who may have care and support needs, and the support needs of a carer. A decision must then be made as to whether the needs identified, when judged against the national eligibility criteria (s.13 and relevant regulations), are eligible to be met; and there is a duty (s.18) to meet such needs. A care and support plan must be made, or in the case of a carer a support plan (s.25) and a personal budget set (s.26), which may be taken in full or in part as a direct payment. Charges for any care and support services provided may be levied.
Section 11 Refusal of assessment	(1)Where an adult refuses a needs assessment, the local authority concerned is not required to carry out the assessment (and section 9(1) does not apply in the adult's case). (2)But the local authority may not rely on subsection (1) (and so must carry out a needs assessment) if— (a)the adult lacks capacity to refuse the assessment and the authority is satisfied that carrying out the assessment would be in the adult's best interests, or (b)the adult is experiencing, or is at risk of, abuse or neglect.

Which route to follow, or whether to incorporate one form of enquiry with the other, will depend on local procedures, and on the circumstances of each individual case. The statutory guidance states at paragraph 14.17 under the Self-neglect part of that section : *"…..it should be noted 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". This is in effect a reminder of the importance of the 3 conditions that must be met in order for the s.42 enquiry duty to be engaged: that the adult has care and support needs, that they are experiencing, or at risk of, abuse or neglect, and that their care and support needs prevent them from protecting themselves from either the risk of , or the experience of abuse or neglect .

The Care Act also provides important duties relating to cooperation between agencies, and to advocacy.

Section 6	Reciprocal duty of cooperation between the local authority and its relevant partners in the exercise of their respective function.
Section 7	Reciprocal duty of cooperation between the local authority and a relevant partner or of a local authority which is not one of its relevant partners in the case of an individual with care and support needs.
Section 67 and section 68	Duty to appoint an advocate to represent and support the individual's participation in assessment or enquiry, where it appears, they may have difficulty understanding the process and communicating their wishes and feelings, where there is no other appropriate person to do so.

In identifying self-neglect as a form of abuse and neglect, the Care Act 2014 does not provide any addition powers of intervention other that those that apply to all adults with care and support needs, as set out in relation sections 9 and 10 above. The Care Act specifically repealed provision under s.47 of the National Assistance Act 1948 to remove a person living in insanitary condition to a place of safety.

Mental Capacity Act 2005

In making enquiries and, if appropriate, undertaking a s.9 (Care Act 2014) care and support needs assessment, it is important to identity whether the individual has the mental capacity to take any specific decisions involved. This will engage duties under the Mental Capacity Act 2005.

MENTAL CAPACITY ACT 2005 Section 1
s1 The five statutory principles are: (1) A person must be assumed to have capacity unless it is established that he lacks capacity. (2) A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success. (3) A person is not to be treated as unable to make a decision merely because he makes an unwise decision. () An act done, or decision made, under this Act for or on behalf of a

person who lacks capacity must be done, or made, in his best interests. (5) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.	
Section 2	*'.. a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of ,the mind or the brain '*
Section 3	AS person is unable to a 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). Relevant information includes the foreseeable consequences of a decision one way or the other, or of failing to make the decision.
Section 4	When determining what is in the best interests of some who lacks capacity to make a decision on a specific matter, the decision maker must avoid making assumptions based on age or appearance or a condition of the person or an aspect of the person's behaviour , and must consider all the relevant circumstances. These include whether it is likely that the person will at some time have capacity ,to permit and encourage the person as far as reasonably practicable to participate , the person's past and present wishes and feelings, their beliefs and values that would be likely to influence their decision if they had capacity as well as the views of people within the individual's network, including anyone engaged in caring for the person on interested in their welfare .
Schedule A1: Deprivation of liberty	Where someone's best interests involves care and support arrangements that amount to a deprivation of liberty, additional legal safeguards must be applied. Deprivation of liberty takes place if the individual is under continuous supervision and control, and is not free to leave. For deprivation of liberty in a hospital or care home, authorisations must be sought from the local authority as the supervisory body, which must undertake a range of assessments. For arrangements in any other location, authorisation must be sought from the Court of Protection.

Additional powers and duties

The following alternative or supplementary routes to intervention may apply in specific circumstances.

Mental Health Act 1983

Psychiatric assessment and treatment may be appropriate where mental health problems are apparent. Voluntary admission to psychiatric hospital may form part of this intervention, but in certain circumstances compulsory admission may be necessary.

Section 2 and section 4	Where an individual is suffering from a mental disorder of a nature or degree which warrants admission to hospital, and admission is in the interests of their own health or safety, or for the protection of others, they may be admitted and detained for up to 28 days. An Approved Mental Health Professional or the Nearest Relative can make the application to the hospital, on the recommendation of two doctors (s.2) or one doctor (s.4 where the admission is of urgent necessity but this section expires after 72 hours unless a second medical recommendation is received within this time period).
Section 3	Where an individual is suffering from a mental disorder of a nature or degree that makes it appropriate for him to receive medical treatment in a hospital, and it is necessary for their health or safety or for the protection of others that they should receive the treatment, which is available and cannot be provided unless they are detained, they may be admitted .The person may be detained initially for a period of up to 6 months for the purposes of treatment , An Approved Mental Health Professional or the Nearest Relative can make the application to the hospital, on the recommendations and statements of two doctors.
Section 135(1)	An Approved Mental Health Professional may request a magistrate's warrant authorising a police constable (accompanied by an AMHP and a doctor) to enter premises where a person believed to be mentally disordered is being ill-treated or neglected, or lives alone and is unable to care for themselves. The person may be removed to a place of safety for 72 hours, for the purpose of assessing the need for their treatment or care.
Section 7	As an alternative to hospital admission, an Approved Mental Health Professional or Nearest Relative may apply to the local authority to place someone under guardianship. This is on the grounds that they are suffering from a mental disorder of a

	nature or degree that warrants their reception into guardianship, and it is necessary in the interests of their welfare or for the protection of others. The guardian has the power to determine where the individual should live, and/or attend for treatment, occupation, education or training, and/or to require that a doctor or AMHP may see them.

Powers of entry

These may be necessary where access cannot be gained to a property and there are acute concerns about the health and safety of an individual living there.

Police & Criminal Evidence Act 1984 'saving life or limb ' section 17(1)(e)	The police may enter premises without a warrant in order to save life or prevent injury or prevent serious damage to property. The power is applicable only in genuine emergency, not in response to general concerns about welfare.
Mental Health Act 1983, s.115	An Approved Mental Health Professional has power to enter and inspect any premises (other than a hospital) in which a mentally disorder patient is living, if there is reasonable cause to believe that the person is not receiving proper care.

Environmental health law

These powers may be called up to address squalor and infestation within domestic premises.

ss 83 to 85 of the Public Health Acts 1936 and ss 34/36 Public Health Act 1961	The action that a local authority can take when satisfied that premises are either (a) in such a filthy or unwholesome condition as to be prejudicial to health ,or(b) are verminous is set out in ss.83 to 85 of the Public Health Act 1936. The local authority can require an occupier of premises to clean and disinfect the dwelling and/or destroy vermin, when the local authority believes the unwholesome and filthy state of the premises is prejudicial to health, or if vermin are present (ss.83/84). The local authority can apply for power of entry. It can carry out the work and charge the occupier. With consent or with a court order, the occupier can also be removed and made clean (s.85). The Public Health Act 1961 provides additional powers in relation to accumulations of rubbish on land that is in the open air, and to require vacation of premises to allow fumigation to destroy vermin (s.36)

Prevention of Damage by Pests Act 1949	The local authority can require occupiers to take steps to keep land (e.g. gardens) clear of rats and mice (e.g. by removing materials that attract vermin).
Part 3 Environmental Protection Act 1990	The local authority has a power to give notice to an occupier of premises requiring abatement of a statutory nuisance, i.e. a state prejudicial to health or a nuisance , smoke, fumes, gases, effluent, accumulation or deposits (such as hoarded materials outside the property(, noise. The local authority has a power of entry to deal with the statutory nuisance and may make a charge to the occupier. 24 hours' notice must be given, unless an emergency or danger to life exists.
Public Health (Control of Disease) Act 1984, amended by the Health & Social Care Act 2008	Under Public Health Protection powers in Part 2A, the local authority may apply to a magistrate for an order imposing restriction or requirements to protect against infection or contamination where there is a significant risk to human health. Measures to disinfect or decontaminate can apply to a person, object or premises.

Housing Law

These powers may be called upon to address self-neglectful behaviour that constitutes severe nuisance and annoyance to others.

Anti-Social Behaviour, Crime and Policing Act 2014	This enables a local authority ,housing provider or the police to apply to court for an injunction to prevent nuisance or annoyance (IPNA).In housing related cases ,this would apply to conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises or conduct capable of causing housing related nuisance or annoyance to any person. The civil standard of proof applies i.e. on the balance of probabilities .The injunction may contain positive requirement and prohibitions . A power of arrest may be attached to any prohibition or requirement where risk of harm is significant . In addition ,where a court has found there has been a breach of an IPNA ,this could lead to eviction of a secure or assured tenant under the mandatory ground for antisocial behaviour.
Housing Act 1985 (as amended by Housing Act 1996) and Housing Act 1988	These provide grounds for eviction of a tenant on grounds such as : • Where the tenant has been found guilty of conduct causing or likely to cause a nuisance or annoyance to persons in the locality Where an obligation of the tenancy has been broken or not performed

Acceptable Behaviour Contracts	These are voluntary agreements between an individual and the police, housing department or registered social landlord. They are not legally binding, but provide an alternative, or perhaps a preliminary step, to injunction or eviction proceedings.
Building Act 1984	Where premises are in a defective state that is prejudicial to health or a nuisance, and using the Environmental Protection Act would entail unreasonable delay, the local authority may issue a notice of intention to remedy the defect, may carry out the work and recover the costs (s.76). in the case of a dangerous building (s.77) the local authority may apply to court for an order to require the owner to carryout the work. If the order is nor complied with, the local authority may carry out the work and recover the costs.
Housing Act 2004	The Act introduced the Housing, Health and Safety Rating System, and allows for risk assessment of residential premises to identify hazards. It provides duties and powers for local authorities to address hazards in building or land that pose a risk of harm to health or safety. Improvement and prohibition notices may be issued, requiring remedial action. If an improvement notice is not complied with the local authority may organise and charge for the work done.

Animal Welfare

Where self-neglect involved neglect of domestic pets, it may be necessary to invoke welfare legislation.

Animal Welfare Act 2006	Cruelty to animals is a criminal offence. In addition, s.9 places a duty on individuals to meet the welfare needs of their animals, by ensuring they have a suitable environment and diet, are able to exhibit normal behaviour patterns and be protected from pain, suffering, injury and disease. Advice and education can be provided to owners, followed by formal warnings and prosecution if not effective.

Court jurisdiction

Complex cases may be the subject of an application to court.

COURT OF PROTECTION	The Court of Protection makes decisions on financial or welfare matters for people who lack mental capacity to make a decision at the time it needs to be made. The Court can be asked to determine an individual's capacity in relation to a specific matter, and/or, where capacity is lacking, to determine what is in the individual's best interest. The Court's involvement is particularly important in complex, uncertain or contested cases.

	If an individual is judged to have capacity in relation to decision, the Court has no jurisdiction over that matter.
HIGH COURT INHERENT JURISDICTION	The High Court can exercise its inherent jurisdiction to set in place protection measures in relation to an individual who, while having mental capacity, cannot exercise that capacity freely because they are • Under constraint, • Subject to coercion or undue influence, or • For some other reason deprived of the capacity to make the relevant decision, or disabled from making a free choice, or incapacitated or disabled from giving or expressing a real and genuine consent. Thus for the court to exercise inherent jurisdiction it most likely requires the involvement of a third party] **39 Essex Chambers using the Inherent Jurisdiction in relation to Adults** https://1f2ca7mxjow42e65q49871m1-wpengine.netdna-ssl.com/wp-content/uploads/2020/03/Mental-Capacity-Guidance-Note-Inherent-Jurisdiction-November-2020.pdf

Appendix 2

Complex Safeguarding Forum Pathway and Criteria

For cases when there is risk of serious harm, injury or death from -

- **Home Invasion**
- **Exploitation / Coercion**
- **Self-Neglect**
- **Hoarding**
- **Human Trafficking**
- **Modern Day Slavery**
- **County Lines**

This pathway is to be followed to support the decision-making process when concerns are raised regarding an adult at risk, and when to escalate to the Complex Safeguarding Forum. This will ensure a consistent approach when dealing with Complex safeguarding concerns and serious concerns involving all forms of adult exploitation as listed above. Concerns must always be taken very seriously and acted upon appropriately. Professionals should work with adults at risk to establish what being "safe" means to them and how best this can be achieved. It is paramount that the individual's wellbeing, as well as wishes and feelings are taken account of at all times

Referrals regarding radicalisation will be dealt with via the PREVENT AND CHANNEL PANEL process.

1. All cases initially to be triaged by the Local Authority First Point of Contact to identify whether the adult has care and support needs and requires an assessment under the Care Act (2014) or a safeguarding concern requires an enquiry under the S42 duty of the Care Act (2014).

2. Professional highlights the concerns due to levels of risk and/or lack of engagement and consideration of a Multi-Agency Response.

3. Professionals meeting or Multi-Disciplinary Team (MDT) Meeting to be arranged to review case circumstances, determine intervention opportunities and make a judgment on current levels of risk.

Agencies can utilise existing multi-agency forums to discuss a case ie CPA/117/Care Plan Reviews/ or arrange a bespoke MDT to discuss emerging concerns. All agencies to consider whether to raise a formal S42 Safeguarding Concern and all MDTs to consider risk assessment/risk management approaches, mental capacity and respect the person's right to make unwise choices where there is capacity. All partner agencies will engage and cooperate in line with S6 and S7 of the Care Act 2014. The Lead Agency will vary, dependent on the Adult at Risk's circumstances, but will take responsibility for coordinating multi-agency discussions.

4. If the adult at high risk from complex safeguarding continues to refuse support and there are increasing concerns that they may come to significant harm or die, cases will be referred to the High Risk/ Safeguarding Forum. **It is essential that your manager is notified before making a referral**

5. Complex Safeguarding Forum: Professionals will submit a referral to the SAB. Each case will be screened by a Senior Manager to ensure that the criteria is met. If the case does fulfil the criteria, it will be placed on the agenda of the next relevant multi-agency forum. Partner agencies are expected to attend the meeting and provide details of all services that have been offered to date, as well as detailed information on all assessments, including capacity and risk. Copies of any previous multi-agency or professional meetings will also be required Professionals meeting that have taken place, and actions from that followed up.

6. Complex Safeguarding Forums will take place on a monthly basis. Each Agency will take responsibility for actions agreed at the meeting. Regular reports will be submitted to the Safeguarding Adults Board to monitor themes, trends and learning.

7. Each agency takes responsibility for the safe storage of minutes and will not share the minutes with any other agency/individual without the written consent of the Chair of the Complex Safeguarding Forum

Flow Chart for Referral

Following first point of contact, early agency meetings, Professional identify the case fulfils the criteria
Risk of serious harm, injury or death

- Home Invasion
- Exploitation / Coercion
- Self-Neglect
- Hoarding
- Human Trafficking
- Modern Day Slavery

A discussion takes place between professional and their manager regarding whether referral is appropriate. Appropriate referral made to the Complex Safeguarding forum
Include any assessments and minutes of any multi-agency meetings. Include the wishes and feeling and the outcome the person would like to see (where you can).

Safeguarding Manager reviews the referral and decision made

Referral not appropriate
Discussion outlining reasons takes place with the referrer

Referral appropriate Multi-Agency
meeting is convened

Actions/ Timeframes agreed
Minutes shared with all agencies to be recorded on partner data systems
Maintain a record of agreed actions and will review accordingly

Complex Safeguarding Referral Form

Please email form to –
ComplexSafeguarding@cheshireeast.gov.uk

It is essential when making a referral to include all work done so far with the adult at risk, to ensure that a Mental Capacity and Risk Assessment have been completed, that there is evidence of contact/work with other agencies and actions from each agency followed up. Finally please ensure a recent visit to the individual has taken place so the forum has up to date information

Name of adult at risk:
Date of Birth
Address
Referrer's name and contact details
Details of concern and nature of risk
Outline recent work undertaken with adult at risk, and include the date last seen by referrer. This should be recent to get an **up to date report including the views,wishes, feelings and outcomes the person would like to see (where you can).**
Please attach a copy of latest **Mental Capacity, Risk Assessment and copies of previous professional or multi agency meetings** when sending in referral.
Name of other services/workers that you feel should be invited to meeting**; please include their email addresses and contact number.**

Is the person aware that this referral is being made - Yes/ No
Has the person been invited Yes/No. If no give reason:

Wherever possible consent should be sought, however, if consent is not given a referral can still be made, and a discussion will take place.

The meeting process will be mindful of an individual's human rights whilst ensuring that partner agencies exercise their duty of care. Information discussed within the meeting is strictly confidential and must not be disclosed to third parties.

All agencies should ensure that the minutes are retained in a confidential and appropriately restricted manner. The responsibility to take appropriate actions rests with individual agencies.

The role of the meeting is to facilitate, monitor and evaluate effective information sharing to enable appropriate actions to be taken to increase an individual's safety.

Please sign that you agree to abide by the above principle:

Name: Agency: Date:

Multi-Agency Complex Safeguarding Forum

Meeting Template

Date

Venue

This meeting is held as part of the Cheshire East Safeguarding Adults duties. The matters raised are confidential to members attending the meeting and the agencies they represent and will only be shared in the best interest of the Adult at Risk and with their consent when it is appropriate to obtain it.

Any minutes from this meeting are distributed with the strict understanding that they will be kept confidential and in a secure place.

All individuals who are discussed at the meeting will be treated fairly, with respect and without improper discrimination. All discussions will be informed by a commitment to equal opportunities and effective practice issues in relation to protected characteristics. It is acknowledged that discussions may sometimes deal with challenging and upsetting information. Discourtesy within the meeting will not be tolerated.

All participants in the meeting will be asked to sign an attendance sheet confirming their acceptance of the terms of the meeting.

Agenda

(1) Welcome, Introductions and Apologies

(2) Case discussion

(a) Background Information and Summary of Concerns

(b) Chronological Summary of Action Taken to date

(c) Agree Actions and Ownership

(3) Review Date if required