Brent Safeguarding Adults Board Hoarding and Self-Neglect Policy

Safeguarding Adults in Brent

Agreed January 2020. Please also refer to the Brent Safeguarding Adults Board Hoarding and Self-Neglect Practitioners Toolkit for assessment documentation and the Clutter Image Scale

Introduction

Managing the balance between protecting adults at risk of self-neglect against their right to self-determination is a serious challenge for services. Working with people who are difficult to engage can be exceptionally time consuming and stressful to all concerned. However, failure to engage with people who are not looking after themselves, whether they have mental capacity or not, may have serious implications for, and a profoundly detrimental effect on, an individual's health and well-being. It can also impact on the individual's family and the local community.

Often the cases that give rise to the most concern are those where an individual refuses help and services and is seen to be at grave risk as a result. If an agency is satisfied that the individual has the mental capacity to make an informed choice on each of the issues raised, then that person has the right to make their own choices, even if these are considered to be unwise. But, in cases of significant vulnerability there should be on-going engagement with the individual applying the principles outlined in this policy. This includes compassionate curiosity and respectful challenge about their biography and what might be underlying their self-neglect.

Serious self-neglect is a multifaceted issue which usually encompasses a complex interplay between mental, physical, social and environmental factors. It frequently covers inter-related issues such as drug and alcohol misuse, homelessness, street working, mental health issues, criminality, anti-social behaviour, inability to access benefits and/or other health related issues.

The Care Act 2014, which came into force on 1 April 2015, sets out the local authority's responsibility for protecting adults with care and support needs from abuse or neglect in primary legislation. For the first time, the accompanying statutory guidance makes direct reference to self-neglect.

The Act provides particular focus on well-being in relation to an individual (Section 1), and requires that organisations should always promote the adult's well-being in their safeguarding arrangements, which is also in line with Making Safeguarding Personal. This includes establishing with the individual what 'safe' means to them and how this can be best achieved. Well-being in the Act is described as:

a. Personal dignity (including treatment of the individual with respect)

b. Physical and mental health and well-being

c. Protection from abuse and neglect

d. Control by the individual over day to day life (including over care and support, or support provided to the individual and the way in which it is provided)

e. Participation in work, education, training or recreation

f. Social and economic well-being

g. Suitability of living accommodation

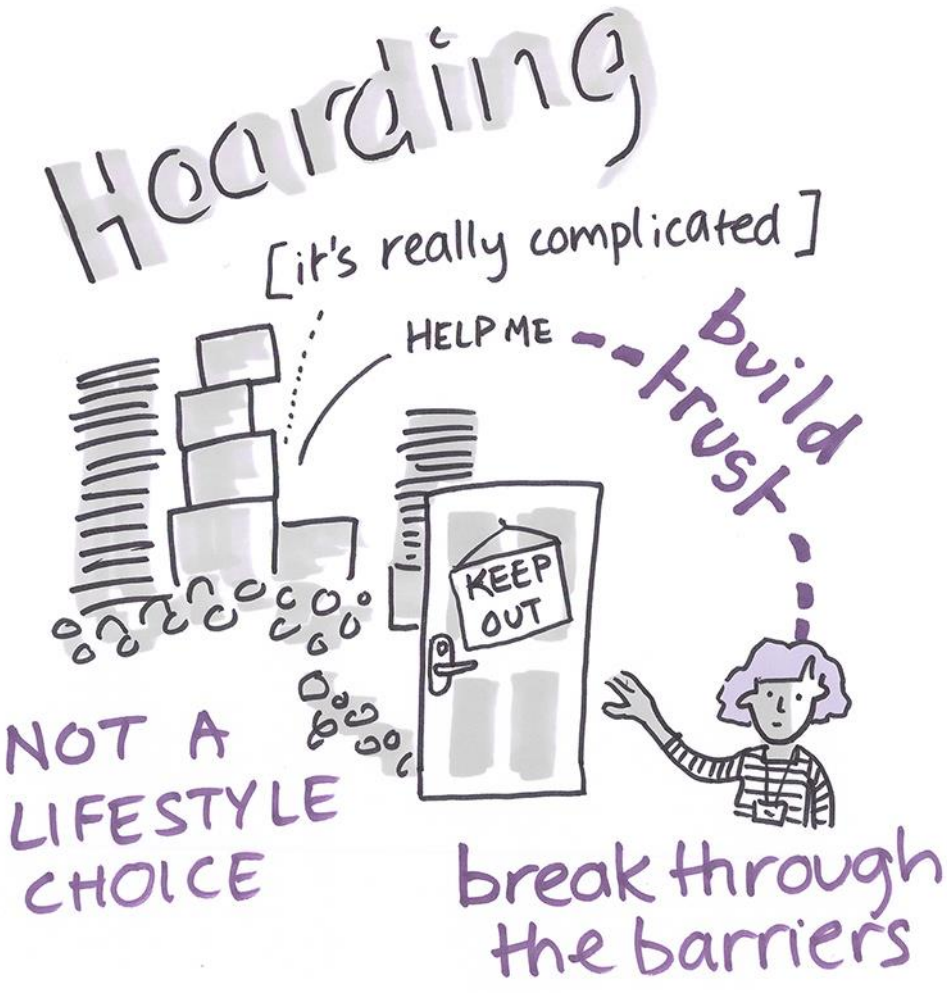
h. The individual's contribution to society

The principles of promoting a person's wellbeing are also supported by Making Safeguarding Personal, which seeks to ensure that where possible the individual is involved in their own safeguarding and that it is 'person-led', 'out-come' focused but not process driven.

Chapter 14 of the statutory guidance accompanying the Care Act 2014 (DH, 2016) explicitly includes self-neglect in the required arrangements for adult safeguarding. It provides a definition of self-

neglect that includes people who hoard alongside those who live in squalor and/or seriously neglect their own self-care.

This policy defines self-neglect as potentially encompassing one or more of four elements – lack of self-care, hoarding, living with squalor and infestation, and/or refusal or reluctance to engage with services.



PART 1: CONTEXT AND FRAMEWORK

Purpose of this Guidance

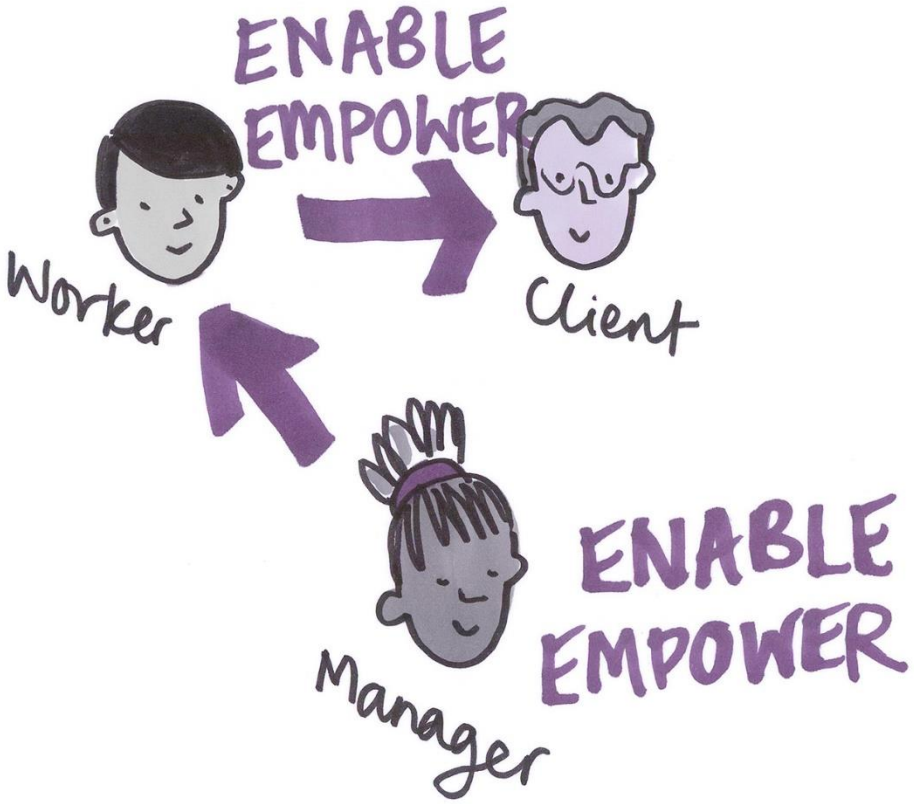
This document outlines a multi-agency procedure and guidance for dealing with issues and concerns of self-neglect, including hoarding, in relation to adults with care and support needs and should be read alongside the London Multi-Agency Adult Safeguarding Policy and Procedures.

This guidance is aimed at a wide range of professionals involved in working with people who may self-neglect (including anyone whose role may lead them to identify issues of self-neglect, requiring an appropriate response in the moment and then referral on to other agencies as indicated).

The policy aims to prevent serious harm or even the death of individuals who appear to be self-neglecting, and facilitate consistency of approach across the borough, by ensuring that:

- Individuals are empowered as far as possible to understand the implications of their actions
- There is a shared, multi-agency understanding and recognition of the issues involved in working with individuals who self-neglect
- There is effective multi-agency working and practice
- Concerns receive appropriate prioritisation
- Agencies and organisations uphold their duty of care
- There is a proportionate response to the levels of risk to self and others

This guidance does not include issues of risk associated with deliberate self-harm and suicidal ideation.



Definitions of Self-Neglect and Hoarding

Self-neglect

The Care Act 2014 statutory guidance (DH, 2016) defines self-neglect as:

"A wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding."

The term itself can be a barrier to working with the issues as some individuals do not identify with this term or description of their situation. As a result, it is important that practitioners seek to negotiate a common ground to understand the individual's own description of their lifestyle rather than making possible discriminatory value judgements or assumptions about how it can be defined.

Hoarding

'Hoarding Disorder' is defined as: "where someone acquires an excessive number of items and stores them in a chaotic manner". The items can be of little or no monetary value and usually result in unmanageable amounts of clutter" (NHS Choices/Conditions/Hoarding).

It's considered to be a significant problem if:

- The amount of clutter interferes with everyday living – for example, the person is unable to use their kitchen or bathroom and cannot access rooms;
- The clutter is causing significant distress or negatively affecting the person's quality of life or their family's – for example, they become upset if someone tries to clear the clutter and their relationships with others suffer.

Characteristics of self-neglect

There are various reasons why people self-neglect. Some people have insight into their behaviour, while others do not; some may be experiencing an underlying condition, such as dementia.

The following characteristics and behaviours are useful examples of potential self-neglect and consequent impairments to lifestyles:

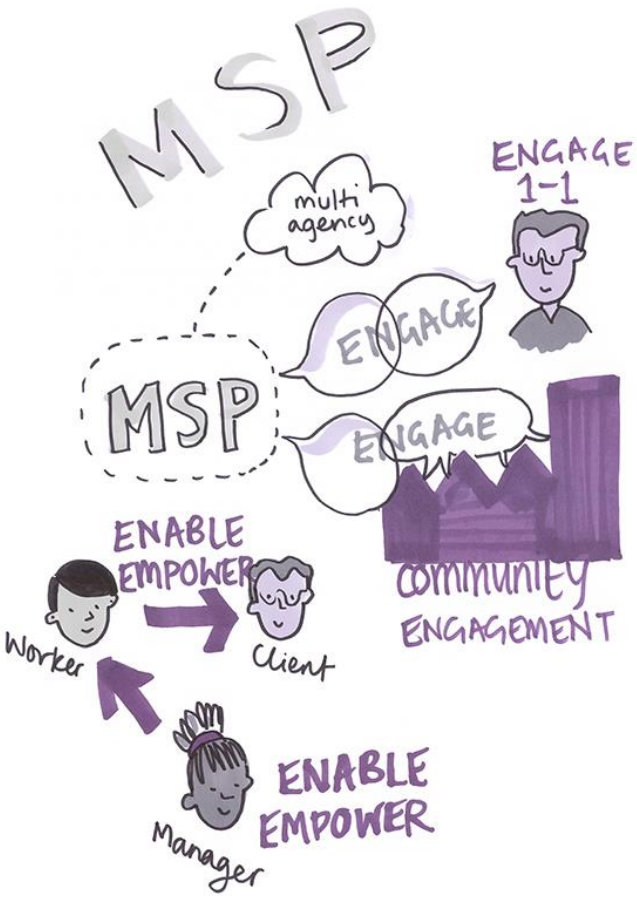
- Living in very unclean, sometimes verminous, circumstances, such as living with a toilet completely blocked with faeces, not disposing of rubbish;
- Neglecting household maintenance, and therefore creating hazards;
- Obsessive hoarding creating potential mobility and fire hazards;
- Animal collecting with potential of insanitary conditions and neglect of animals' needs;
- Failing to provide care for him/herself in such a way that his/her health or physical well-being may decline precipitously;
- Poor diet and nutrition, evidenced for instance by little or no fresh food or mouldy food in the fridge;
- Failure to maintain social contact;
- Failure to manage finances;
- Declining or refusing prescribed medication and/or other community healthcare support – for example, in relation to the presence of mental disorder (including the relapse of major psychiatric features, or a deterioration due to dementia) or to podiatry issues;
- Refusing to allow access to health and/or social care staff in relation to care needs, health needs or property maintenance, or, being unwilling to attend appointments with relevant staff.

Characteristics identified by people deemed to self-neglect

- Fear of losing control;
- Pride in self-sufficiency;
- Sense of connectedness to the places and things in their surroundings;
- Mistrust of professionals/people in authority.

Common responses by people deemed to self-neglect

- I can take care of myself;
- I do my best to make ends meet;
- I prioritise and let other things go.



Hoarding behaviour is typically manifested in three ways:

Acquisition

Compulsive buying and/or the accumulation of free items such as newspapers, junk mail and items left at the side of the road. This can be motivated by the belief that having an item will bring comfort and make the person happy or that they are 'rescuing' items so that they are not wasted or lost. It can also provide a sense of security (especially where the person has been a victim of crime).

Saving

There are three common reasons for saving: 'sentimental' which can be motivated by grief and refers to the emotional attachment a person feels toward an object i.e. it may become linked to a happy memory or someone they love and miss; 'instrumental' which can often stem from a history of having experienced deprivation, or of having had possessions forcibly taken from them in the past and so items are saved 'just in case I need them' or to guard against 'being without' again in the future; 'intrinsic' or 'aesthetic' where items are saved because they are seen as too beautiful to be discarded.

Disorganisation

Items of value are mixed in with rubbish and items of no apparent value. People who hoard often have difficulty with information processing, categorisation, sequencing tasks and decision-making. They may also believe that they have a poor memory which leads to items being stored where they are visible instead of put away in cupboards i.e. 'if I put them away, I won't be able to see them and if I can't see them I won't remember I have them and they will be lost to me'.

The complexities around the reasons why a person hoards and their emotional attachment to the items hoarded means that simply ordering or telling a person to clear their home will likely have no effect and/or may increase the person's anxiety, potentially exacerbating the problem.

The emotions stirred up when attempting to discard hoarded items can be too distressing and/or leave the person feeling vulnerable and insecure. In addition, difficulty with decision-making and not being able to break a task down into smaller steps could mean that the process of clearing hoarded items is overwhelming for the person and so avoided. For this reason it is important to try to understand the meaning behind the items that are being collected.

It is also common for people who hoard not to recognise the severity of the problem and ignore, or not see, the clutter in their home. Conversely, the person who hoards may be acutely aware of the issue and feel embarrassed, leading them to feel defensive and/or deny that there is a problem.

Clutter images

See Practitioners Toolkit

Safeguarding Principles for Effective Working with Self-Neglect and Hoarding Issues (turn into graphic)

Empowerment – People being supported and encouraged to make their own

decisions and informed consent.

Prevention – It is better to take action before harm occurs.

Proportionality – The least intrusive response appropriate to the risk presented.

Protection – Support and representation for those in greatest need.

Partnership – Local solutions through services working with their communities.

Accountability – Accountability and transparency in delivering safeguarding.

The following principles underpin this guidance in working with self-neglect and hoarding issues:

Promoting a person centred approach that supports the right of the individual to be treated with respect and dignity, and, as far as possible, to be in control of their own life. The focus should be on person centred engagement and risk management, and consideration should be given to if the individual is more inclined to engage with some organisations than others – if so, this should be optimised in the engagement with the individual.

The response needs to be proportionate to the level of risk to the person and others, the self-neglect & hoarding tools can be used to determine the level of risk as low, moderate or high. The risk should be monitored where it is **moderate or high**, making proactive contact with the adult to ensure that their needs and rights are fully considered in the event of any changed circumstances.

Each organisation needs to take responsibility for their role in supporting the adult to address issues caused through self-neglect. Where one organisation is concerned about how agencies are working together, or where individuals are being caught up in a revolving door of referrals back and forth, **a multi-agency discussion should take place** to agree roles and responsibilities for addressing the needs and risks in the case.

Partnership approach should be used in cases where appropriate to enable the statutory powers and specialisms of different organisations to be implemented.

Accepting self-neglect as a "lifestyle" choice and closing a case without having assessed the risk and engaged with the adult in a meaningful way is unacceptable as this exposes the adult at risk to on-going or increased harm or risk, and organisations to fail in their duty of care. Cases involving moderate or high risk should not be closed simply because an individual refuses to engage without a multi-agency meeting to discuss the implications of an agency withdrawing. Social workers should refer to guidance on closing cases (see multi-agency policy and procedures guidance) in the London Multi-Agency Adult Safeguarding Policy & Procedures (Section 4 Adult Safeguarding Procedures, Stage 4: Closing the Enquiry).

Part of the challenge is knowing when and how far to intervene where there are concerns about self-neglect and hoarding, and when a person makes a capacitated decision not to acknowledge there is a problem or to engage in improving the situation. This usually involves making individual judgements about what is an acceptable way of living, balanced against the degree of risk to an adult and/or others. Multi-agency meetings should be held in such cases, with agreement sought about which organisation will maintain contact in an effort to engage the individual and to monitor/reduce the risks. This may require agencies to be flexible about their use of thresholds when they appear best placed to lead and coordinate the offer of care and support.

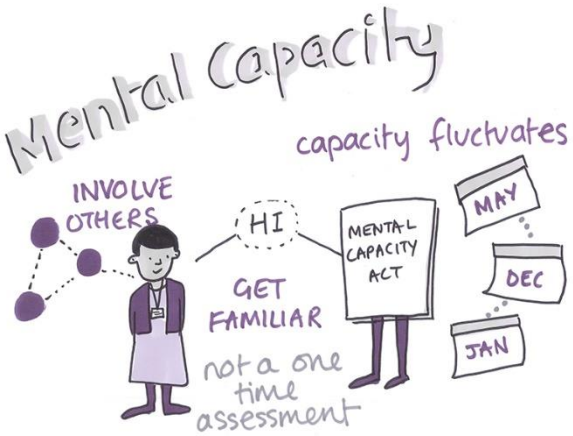
Assessing mental capacity and trying to understand what lies behind self-neglect and hoarding is often complex. It is usually best achieved by working with other organisations and, if they exist, extended family and community networks.

- It is important to understand that poor environmental and personal hygiene may not necessarily always be as a result of self-neglect. It could arise as a result of cognitive impairment, poor eyesight, functional and financial constraints. In addition, many people, particularly older people, who self-neglect may lack the ability and/or confidence to come forward to ask for help, and may also lack others who can advocate or speak for them.

- As emphasised by safeguarding adult reviews, mental capacity assessments must be thorough, with records clearly documenting the basis on which decisions about capacity were reached. Mental capacity assessments must be reviewed, especially but not just where a person's mental capacity appears to fluctuate. Practitioners with specialist expertise should be involved in particularly complex assessments. A person's executive capacity, namely their ability to implement and manage the consequences of a decision, should be included in the assessment, using "show me" or "articulate and demonstrate" approaches.

- The assessment must be contextual, cognisant of the person's history and also of their current relationships. Assessment should not rely just on the individual's self-report but triangulate this with other available information.

- The Mental Capacity Act Code of Practice states that one of the reasons why people may question a person's capacity to make a specific decision is "the person's behaviour or circumstances cause doubt as to whether they have capacity to make a decision" (4.35, MCA code of practice, p52). Arguably, extreme hoarding or self-neglect behaviour meets this standard and an assessment of capacity should take place.



Note: executive incapacity must be a direct result of a permanent or temporary impairment or disturbance of the mind. As executive capacity is not explicitly referred to in the Mental Capacity Act 2005 it must be considered as part of the functional tests, particularly whether a person can understand relevant information about a decision to be made and use or weigh that information as part of the decision-making process.

Empowering/Engaging the Adult at Risk

Building a positive relationship with individuals who self-neglect and hoard is critical to achieving change for them, and in ensuring their safety and protection.

In engaging with the adult (evidence base Braye, Orr and Preston-Shoot):

- Consider if they have the necessary information in a format they can understand;
- Check whether they understand options and consequences of their choices;
- Ask about and listen to their reasons for mistrust, disengagement, refusal and their choices;
- Ensure there is the time to have conversations over a period and building up of a relationship;
- Consider who (whether family, advocate, other professional) can support you to engage with the adult;
- Always involve attorneys, receivers, or representatives if the adult has one and/or where this would help to support their engagement;
- Establish if a plan for agreed actions/outcome for person who has fluctuating capacity is in place during a time when they had capacity for that decision;
- Support/encourage the adult to attend meetings where possible. 4.5 Mental capacity - consideration needs to be given at an early stage, to determining if the individual has the mental capacity to understand and make informed decisions about their response to agencies' concerns about their apparent self-neglecting behaviour (see section 8 of this policy). This includes paying attention to executive capacity, namely whether the individual can implement a particular decision and manage the consequences.

Risk enablement - There is a need to be mindful that organisational and professional risk aversion and defensive practice can hinder choice, control and independent living. This poses real challenges for practitioners/professionals in balancing risk enablement with their professional duty of care to keep people safe. Risk enablement therefore should always be a core part of placing people at the centre of their own care and support. Providing real choice and control means enabling people to take the risks that they choose and incorporating safeguarding and risk enablement into relationship-based, person centred working.

Risk assessments - Safeguarding adult reviews emphasise that risk assessments should be robust and holistic, with risks considered individually and collectively. Risks to other people should not be under-estimated. Assessments should be evidence-based and not reply solely on an individual's self-reporting. The approach should be multi-agency, culminating in risk management plans that include consideration of all possible legal options. Decisions, and the reasons behind them, should be clearly documented, with multi-agency meetings reconvening to consider progress and to review the plan. Cases should not be closed without discussion between agencies just because the individual chooses to disengage.

Responses to Service Refusal - The most frequent concern raised by professionals when working with adults who may self-neglect or hoard is the challenge when adults refuse to engage or accept services.

Self-neglect or hoarding needs to be understood in the context of each individual's life experience; there is no one overarching explanatory model for why people self-neglect or hoard. It is a complex interplay of association with physical, mental, social, personal and environmental factors. A starting point is trying to understand why the person is disengaging and the context for why they may mistrust services.

Actions which can help to get engagement in self-neglect are suggested by Braye, Orr and Preston-Shoot (2014) as:

Building rapport: Taking the time to get to know the person, refusing to be shocked

Moving from rapport to relationship: Avoiding kneejerk responses to self-neglect, talking through their interests, history and stories

Finding the right tone: Being honest while also being non-judgmental, separating the person from the behaviour

Going at the individual's pace: Moving slowly and not forcing things; continued involvement over time

Agreeing a plan: Making clear what is going to happen; a weekly visit might be the initial plan

Finding something that motivates the individual: Linking to interests (e.g. hoarding for environmental reasons, link into recycling initiatives)

Starting with practicalities: Providing small practical help at the outset may help build trust

Bartering: Linking practical help to another element of agreement – bargaining

Focusing on what can be agreed

Finding something to be the basis of the initial agreement, that can be built on later

Keeping company: Being available and spending time to build up trust

Straight talking: Being honest about potential consequences

Finding the right person: Working with someone who is well placed to get engagement

External levers: Recognising and working with the possibility of enforcement action

It is important to consider in multi-agency partnership settings which agency is best placed to work with an adult who is disengaging to build links and trust**.**

If a person has capacity to make decisions about their care or treatment, is refusing to engage and there remains on-going significant harm to a person's health, safety or wellbeing, then there are benefits to convening a multi-disciplinary meeting to ensure all available powers and duties are considered. Again, this needs to be balanced and proportionate and take into account a person's right to self-determination.

If a person lacks the relevant decision-making capacity the need for Court of Protection involvement should be considered, especially where there may be uncertainty or disagreement about what would be in that person's best interests.

Where a person's capacity fluctuates, or where the individual has the capacity to make a specific decision but the risks to self and/or others are high, consideration should be given to approaching the Court of Protection or the High Court for the exercise of its inherent jurisdiction. Legal advice should be sought.

If any agency is considering legal action then a multi-agency meeting should be convened to ensure that all other potential options have been fully considered.

Professionals should aim for the following in their ongoing work with the individual:

- Humanity/empathy;
- Calm and understanding approaches;
- Reliable/patient/honest;
- Normalising self-neglect (neither dismissing it or treating it as exceptional);
- Recognising and working with strengths of individuals;
- Recognising resilience and determination in individuals;
- Understanding people's individual stories and reasoning;
- Not walking away/respect for autonomy should not prevent you from challenging a person's life style if it is causing them harm;
- A conversation and being challenged even if did not agree;
- Work at the individual's own pace – not being overly directive.

Engagement/Support with the Adult's at Risk Family/Carers

Carers have similar rights as people with care and support needs under the Care Act 2014. In situations where a carer is supporting someone who self-neglects or has hoarding behaviours or indeed lives with the person, then there is a duty to assess where it appears that they have support needs, either now or in the future. This assessment can be refused by the carer.

Carer's assessments must seek to establish the carer's need for support (practical and emotional), and the sustainability of the caring role itself. The local authority must include a consideration of the carer's potential future needs for care and support.

Engaging family members/carers - the family member or carer of an adult at risk should be engaged wherever possible when the adult at risk has provided consent. This will include being part of planning, decision-making and whether they are willing and able to provide support.

Where the adult does not give consent to engage with a carer, the carer is still entitled to a carer's assessment, and if they raise concerns in their own right, or if they have made the referral about the self-neglect concerns then these should still be discussed and their concerns heard.

Factors to consider in engaging with family carers:

Ensure the person is aware and consenting to the proposed role of family/carer in his/her care/treatment plan.

Offer a carers assessment, subsequently providing services if they meet eligibility criteria.

Involve the family/relative/carer in the development of any care & support plan. Consider if it's appropriate to invite carers to planning/discharge meetings.

Ensure that the carer's role and responsibilities are clearly recorded on formal care and support plans.

Check that they are willing and able to provide care & support.

Provide them with necessary training and information to do what is expected.

Explore the dynamics between family members – these may underpin the self-neglect & influence their decision-making.

Find creative solutions working with family members & other community resources.

Challenge unpaid carers (appropriately & safely) if there is reason to believe that the person is being manipulated or intimidated by them. Concerns should be referred on to statutory agencies.

As safeguarding adult reviews have highlighted, cases where a carer is very involved in the person's care can involve a complex mix of elements including controlling and coercive behaviour, dependency and self-neglect. In these cases it is important to:

- Have discussions with the adult who is self-neglecting separately in order to discuss any aspects of coercion;
- Establish with the carer how they perceive their caring role, what care and support they provide, what care and support they believe the person requires and if they need any support in their role as a carer–a carer's assessment should be carried out;
- Consider if the case should be referred to Multi-Agency Risk Assessment Conference (MARAC).

Legal Framework

Public authorities, as defined by the Human Rights Act 1998, must act fairly, proportionately, rationally and in line with the principles of the Care Act 2014, the Mental Capacity Act 2005, the Human Rights Act 1998 and, where appropriate, consideration should be given to the application of the Mental Health Act 1983.

Where appropriate, concerns may be referred to the Court of Protection. In rare cases, where the individual has capacity to make the decision in question, but is unable to exercise choice, for example – appears to be acting under duress, consideration should be given to making an application under the Inherent Jurisdiction of the High Court.

The Care Act 2014 places specific duties on the Local Authority in relation to self-neglect and hoarding as follows:

Assessment of an adult's needs for care and support (Care Act 2014 Section 9)

(1) Where it appears to a local authority that an adult may have needs for care and support, the authority must assess:

a) whether the adult does have needs for care and support, and

b) if the adult does, what those needs are.

(2) An assessment under subsection (1) is referred to in this Part as a "needs assessment".

(3) The duty to carry out a needs assessment applies regardless of the authority's view of:

a) the level of the adult's needs for care and support, or

b) the level of the adult's financial resources.

(4) A needs assessment must include an assessment of:

a) the impact of the adult's needs for care and support on the matters specified in section 1,

b) the outcomes that the adult wishes to achieve in day-to-day life, and

c) whether, and if so to what extent, the provision of care and support could contribute to the achievement of those outcomes.

Enquiries (Care Act 2014 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, abuse or neglect (which as noted above the statutory guidance confirms includes self-neglect), and

- as a result of those needs is unable to protect himself or herself against the abuse of neglect, or the risk of it.

Advocacy

If the adult has 'substantial difficulty' in understanding, retaining, using or weighing information, communicating views, including a Care Act 2014 Section 42 enquiry, the local authority must ensure that there is an appropriate person to represent and support the person, and if there isn't, arrange an independent advocate. The Human Rights Act 1998 gives everyone the right to 'respect for his private and family life, his home and his correspondence' and needs to be considered at all times. This is a qualified right, which means that interferences with this right must be in accordance with the law and necessary.

Legal Interventions

There will be times when the impact of the self-neglect on the person's health and well-being or their home conditions or neighbours' environmental conditions are of such serious concern that practitioners may need to consider what legislative action can be taken to improve the situation when persuasion and efforts of engagement have failed. Such considerations should be taken as a result of a multi-disciplinary, multi-agency intervention plan with appropriate legal advice.

It is important to note that Section 46 of the Care Act 2014 abolishes local authorities' power in England to remove a person in need of care under Section 47 of the National Assistance Act 1948.

Mental Capacity

Mental capacity is a key determinant of the ways in which professionals understand self-neglect, including hoarding, and how they respond in practice. The autonomy of an adult with mental capacity must be respected, and efforts should be directed to building and maintaining supportive relationships through which risks can be discussed and services can in time be negotiated if required.

When a person has been assessed to lack capacity to make specific decisions, certain interventions and services can be provided in the person's best interests.

Mental capacity however involves not only the ability to understand the consequences of a decision, known as decisional capacity, but also the ability to execute the decision, known as executive capacity. The mental capacity assessment should entail both the ability to make a decision in full awareness of its consequences and the capacity to carry it out.

It is also important to understand the decision-specific nature of capacity, so that the apparent capacity to make simple decisions is not assumed automatically in relation to more complex ones.

Careful attention should be paid to the assessment of mental capacity, especially with regards the person's ability to weigh up and make use of information. It is important to be aware that people can be articulate and superficially convincing regarding their decision-making but when probed about their behaviour are unable to identify risks and indicate how they are able to address the concerns of others. The nature of any intervention will to a certain extent centre on the question of whether the person concerned has the mental capacity to make the relevant decision. Where people have "substantial difficulty" in being involved in the key mental capacity and/or adult safeguarding and/or care and support processes the local authority must enable them to be supported in that involvement as fully as possible. Reasonable steps must be taken to enable the person to be fully involved. If the person needs support to be fully involved and a friend or family member is available to facilitate the person's involvement that must be arranged. If there is no one appropriate available to facilitate the person's involvement, the local authority must consider arranging for an independent advocate to be engaged.

Respect for the person's wishes and beliefs needs to be central, both in best interest assessment and in adult safeguarding, in line with making safeguarding personal. Professionals need to find creative, sensitive ways to work with people who self-neglect or hoard, understanding what the behaviour means to them and how they themselves wish to address the problem.

Where an adult has fluctuating capacity, it may be possible to establish a plan when they have the capacity to make the decision in question which might determine what they want to happen when they lack capacity and it is important to make every effort to 'enhance' the person's capacity through the timing of discussions.

For adults who have been assessed as lacking the mental capacity to make specific decisions about their health and welfare, the Mental Capacity Act 2005 allows decisions to be made on behalf of the person in their best interests. In urgent cases, where there is a reasonable belief that a person lacks mental capacity to make the relevant decision (and this has not yet been satisfactorily assessed and concluded), and the home situation requires urgent intervention, the Court of Protection can make an interim order and allow intervention to take place.

A person who lacks capacity to make the relevant decision has recourse in law to the Court of Protection (See Appendix 2). The court will however expect to see evidence of professional decision-making and recording having already taken place.

Practitioners should:

Check whether the person has made an advance decision to refuse medical treatment when considering medical treatment;

Involve the adult in meetings and decisions as much as possible;

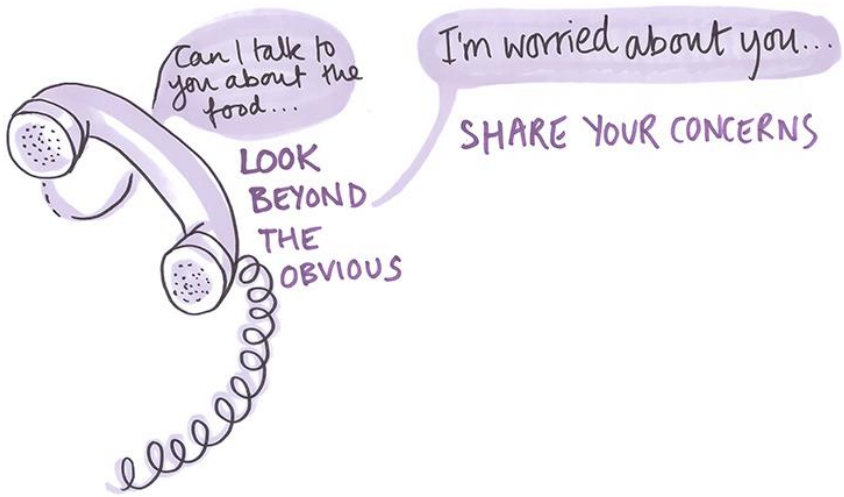
Always involve attorneys, deputies and representatives such as IMCAs or other advocates;

Ensure that the engagement and the individual's decisions are clearly recorded within the relevant documentation e.g. support plans, risk assessments, meeting pro-forma.

When assessing capacity, it is important to remember this is an assessment of capacity for whether the person is able to make decisions relating to whether or not to access help for their self-neglect or hoarding – so, does the person understand they have a problem? Is the person able to weigh up the alternative options, e.g. being able to move around their accommodation unhindered? Can the person retain the information given to them? It is essential that any capacity assessment is clearly documented on case records.

Repeat assessments in respect of the same decision may be necessary, for example where the individual's capacity appears to fluctuate and/or where they appear unable to execute a decision that they have indicated they wish to take. The involvement of specialist practitioners may be necessary in complex cases, for instance when there are also mental health concerns or where an individual presents with particular disabilities, such as acquired brain injury or Korsakoff's syndrome.

Where there are mental health concerns, it is important that those making a referral for assessment distinguish between a request for a general mental health assessment and a request for a specific Mental Health Act assessment.



Children

If there are any children or young people in the home consider whether the clutter/cleanliness in the home is such that the child/children may be subject to risk, harm or neglect. If in doubt, a referral should be made to the Multi-Agency Safeguarding Hub (MASH) which provides a single point of access to advice, information and support services for professionals working with vulnerable and at-risk children and young people.

If the child is caring for the adult in any way they may be a young carer and consideration should be given to a referral to children's services for assessment and support for the young carer.

PART 2: PRACTICE GUIDANCE FOR STAFF

Assessment

Making sense of the self-neglect

Self-neglect is complex and it's important to understand as far as possible each person's particular circumstances and their perceptions of their situation as part of assessment and intervention.

Sensitive and comprehensive assessment is important in identifying capabilities and risks. It is important to look further and tease out through a professional relationship the possible significance of personal values, past traumas and social networks. Some research has shown that events such as loss of parents as a child, abuse as a child, traumatic wartime experiences, and struggles with alcoholism have preceded the person self-neglecting. The self-neglect could also be the result of domestic abuse (current or historic).

Engagement:

It is important to consider how to engage the person at the beginning of the assessment. Careful consideration should be given to the method of making contact to ensure it is not perceived as impersonal or authoritative. Home visits are important and practitioners should question if third party information or a telephone conversation is sufficient to make an informed assessment/decision.

It is important that the practitioner uses their professional skills to be invited into the person's house and observe for themselves the conditions of the person and their home environment. Practitioners should discuss with the person any causes for concern over the person's health and wellbeing and obtain the person's views and understanding of their situation and the concerns of others.

The assessment should include the person's understanding of the cumulative impact of a series of small decisions and actions as well as the overall impact.

Repeat assessments might be required as well as ensuring that professional curiosity and appropriate challenge is embedded within an assessment.

It is important that when undertaking the assessment the practitioner does not accept the first, and potentially superficial, response rather than interrogating more deeply into how a person understands and could act on their situation.

Information sharing across all relevant agencies (subject to appropriate information-sharing protocols) is crucial so that all agencies involved better understand the extent and impact of the self-neglect, including hoarding, and work together to support the individual and assist them in reducing the impact on their wellbeing and on others.

Multi-agency meetings to share information are strongly advised in complex cases, where there are significant risks in order to better understand and manage risk (see section X). Wherever possible the person themselves should be included in the meeting along with significant others and an independent advocate where appropriate.

Risk Assessment

In potentially complex situations or where there is thought to be significant risk to the person's health, wellbeing or environment, or to others, practitioners should use a risk assessment tool, to evaluate the risks. It is important to take into account individuals' preferences, histories, circumstances and life-styles to achieve a proportionate and reasonable tolerance of acceptable risks.

Refusal of assessment/engagement in the assessment process (Care Act 2014 Section 11) - If an assessment is refused, then there should be a clear record of any concerns by agencies involved or carers/other parties, the perceived risk from the information known at this point, and any system for monitoring the situation. Any involved parties that have concerns should be advised that they can refer again if the situation deteriorates/changes and they have additional concerns. Where the risks are high and/or the case complex, a multi-agency meeting should be held to share assessments and information, and to agree an action plan for attempting to engage the individual and monitor or reduce the risks.

Recording

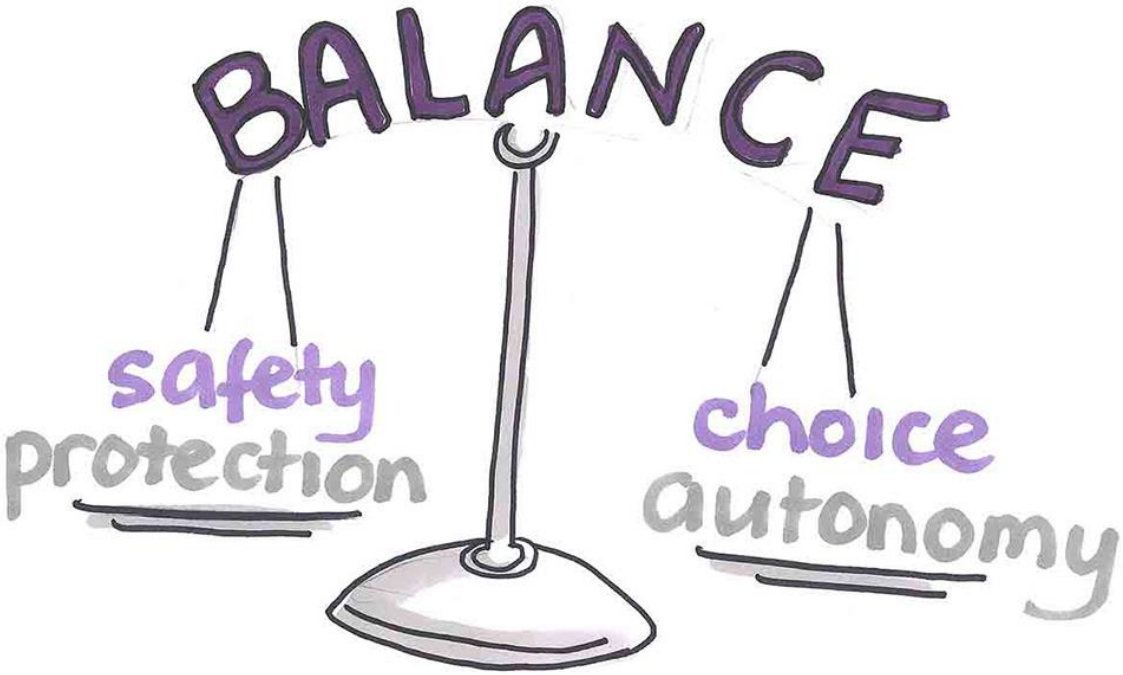
It is important to record assessment, decision-making and intervention in detail to demonstrate that a proper process has been followed and that practitioners and managers have acted reasonably and proportionately.

- There should be an audit trail of what options were considered and why certain actions were or were not taken.
- At every step and stage in the process record the situation, what has been considered, who has been consulted and what decisions have been reached.

This may appear a time consuming process, but it is simply a case of putting your activity notes into a framework of considerations and why you have chosen a particular course of action.

Mental capacity considerations should be routinely recorded, including explicitly where there is no reason to doubt the person's ability to make their own decisions and why this is.

Formal mental capacity assessments need to be recorded fully in line with the Mental Capacity Act Code of Practice (DCA, 2007).



Interventions

The starting point for all interventions should be to encourage the person to do things for themselves. Where this fails in the first instance, this approach should be revisited regularly throughout the period of the intervention. All efforts and response of the person to this approach should be recorded fully.

Efforts should be made to build and maintain supportive relationships through which services can in time be negotiated. This involves a person-centred approach that listens to the person's views of their circumstances and seeks informed consent where possible before any intervention. It is important to note that a gradual approach to gaining improvements in a person's health, wellbeing and home conditions is more likely to be successful than an attempt to achieve considerable change all of a sudden, which is how the adult may perceive it.

A multi-agency approach is often most successful for self-neglect cases. Co-ordinated actions by housing officers, mental health services, GPs and District Nurses, social work teams, the police and other public services and family members have led to improved outcomes for individuals

(Braye, Orr and Preston-Shoot, 2015).

Research supports the value of interventions to support routine daily living tasks. However cleaning interventions alone, where home conditions are of concern, do not emerge as effective in the longer term. They should therefore take place as part of an integrated, multi-agency plan.

As self-neglect is often linked to disability and poor physical functioning, often a key area for intervention is assistance with activities of daily living, from preparing and eating food to using toilet facilities.

Where agencies are unable to engage the person and reach an agreement to implement services to reduce or remove risks arising from the self-neglect, the reasons for this should be fully recorded and maintained on the person's case record, with a full record of the efforts and actions taken by the agencies to assist the person. The person, carer or advocate should be fully informed of the services offered and the reasons why the services were not implemented. There is a need to make clear that the person can request assessment for services at any time in the future and the ways of making contact should be outlined to them.

Depending on the risks, arrangements may need to be made for on-going monitoring and, where appropriate, making proactive contact to ensure that the person's needs, risks and rights are fully considered and to monitor any changes in circumstances.

In cases of collecting pets/animals, the practitioner will need to consider the impact of this behaviour carefully. Where there is a serious impact on the adult's health and wellbeing, the animals' welfare, and/or the health and safety of others, the practitioner should collaborate with the Royal Society for the Prevention of Cruelty to Animals (RSPCA) and public health officials. Consideration has to be given to the welfare of the animals and potential public health hazards.

Where the conditions of the home are such that they appear to pose a serious risk to the adult's health from filthy or verminous premises, or their living conditions are becoming a nuisance to neighbours/affecting their enjoyment of their property, advice from Environmental Health and Housing should be sought and joint working should take place. In extreme circumstances, where a negotiated way forward proves elusive, it may be necessary to use legal powers to impose an intervention.

If as a result of hoarding the practitioner thinks there may be a risk of fire they should seek advice from London Fire Brigade.

There are four Framework approaches to monitoring/addressing self-neglect cases depending on the individuals involved, the issues and the level of risk. The self-neglect assessment toolkit can be used to support decision-making on the most appropriate approach to take.

1. Single agency response
2. Formalised multi-agency response
3. Section 42 (of the Care Act 2014) safeguarding adults referral/enquiry
4. Complex Needs Panel (Pilot)

Possible approaches that have been shown to work well are summarised below:

'Being there'

Maintaining contact; monitoring risk/capacity, spotting motivation

Practical input

Household equipment, repairs, benefits, 'life management'

Risk limitation

Safe drinking, fire safety, repairs

Health concerns

Doctors' appointments, hospital admissions

Care and support

Small beginnings to build trust

Cleaning/clearing

Proportionate to risk, with agreement, 'being with', attention to what follows

Networks

Family/community, social connections, peer support

Therapeutic input

Replacing what is relinquished; psychotherapy/mental health services

Change of environment

Short term respite, a new start

Enforced action

Setting boundaries on risk to self & others

(Braye, Orr and Preston-Shoot (2014)

Single Agency Response

This level of response could involve one agency or a number of agencies working directly with the individual. This is the most likely response for low/moderate risk cases with engagement/partial engagement of the adult.

Incidents that are low risk would most likely be managed outside of formal procedures and addressed through mechanisms such as engagement with the adult, supporting the person to address their concern, engagement with community activities, or access to health care and counselling – this approach could be most appropriate particularly where the adult is engaging with services to some extent and there is an expectation of decreasing the level of risk with continued engagement.

Professional judgment is key, any factor or issue may move a low risk case into a higher threshold which would warrant a more formalised multi-disciplinary response.

Where more than one agency is involved, agencies must agree how and when information will be shared so that everyone is well versed in what work is being undertaken and its outcomes. No agency should close down their involvement in a case without discussing this with the other agencies known to be involved. The agencies involved will agree for one agency to take the role of lead agency and one practitioner takes on the responsibility for co-ordinating information-sharing. This may be determined by the statutory nature of any intervention and/or by the agency and practitioner best placed to maintain a relationship with the service user and therefore to co-ordinate other assessments and interventions.

Formalised Multi-Agency Response

A co-ordinated response across agencies through a Multidisciplinary Risk Management Meeting (MDRMM) may be required for cases that are **moderate (with non-engagement) to high risk (either with engagement or non-engagement)**, where one of the agencies involved feels that a more formal multi-agency meeting is required in order to: assess risk, share information, agree an approach to working/engaging with the individual that is outlined in an action plan with clear monitoring/reviewing in place. The person could either be receiving services or not and/or engaging with services or not.

A Multidisciplinary Risk Management Meeting would most likely be the appropriate setting for an initial discussion of an individual who is at risk due to self-neglect. Further such meetings may be indicated in order to monitor the outcomes of the action plan agreed at the initial meeting. These meetings are a "professionals" meeting; they are not a suitable forum for the individual or family carer to attend due to the format of the meeting. Therefore, careful consultation to ensure that the individual's views are known and represented is required. These meetings are part of a planned approach and not intended to be part of an emergency response.

A Multidisciplinary Risk Management Meeting (MDRMM) should be convened in the following circumstances:

- The adult has needs for care and support (whether or not the local authority is meeting any of those needs) and is experiencing, or is at risk of, abuse or neglect. As a result of those care and support needs the adult is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.
- The adult has mental capacity to make unwise decisions and choices about their life, and the identified risks are high.
- The adult's decision-making means they are unable to protect themselves from the risk of serious abuse or neglect from themselves or others.
- The adult is not engaging with services/support, has capacity and remains a moderate risk.
- The adult is engaging but the risks are high.
- The work of the agencies involved needs to be coordinated.

A Multidisciplinary Risk Management Meeting provides an opportunity to:

- Identify with the adult at risk their wishes, views and beliefs - what outcome they want to achieve;
- Conduct appropriate assessments around capacity and best interest decisions;
- Share information across agencies & form a shared assessment of risk;
- Establish a multi-agency risk management plan;
- Consider what may be contributing to the behaviour and work to address this from a preventative framework.

Requesting a Multidisciplinary Risk Management Meeting

Any agency (including voluntary agencies) can request a Multidisciplinary Risk Management Meeting (MDRMM). The agency requesting should put forward a clear and concise argument as to why this is necessary and send the request to all parties who are either actively working with the case or whom have received a referral or notification in the last six months. The requesting agency will be responsible for making logistical arrangements for the meeting to take place.

The purpose of a Multidisciplinary Risk Management Meeting is to:

- Determine if the individual poses a significant risk to their own health and wellbeing and that of others or whether the risks are low/a matter of individual choice around lifestyles/unwise choices.
- Consider if mental capacity is an issue, whether a formal capacity assessment is required and which is the best agency to undertake this.
- Assess the degree to which the individual is likely to engage with services.
- Assess the level of risk (if not already done).
- Decide if further intervention is required and recommended next steps.
- Consider if there is a risk to any children.

The Chair co-ordinating the meeting will:

- Invite all relevant partners to the meeting.
- Ensure that the adult at risk is consulted and that their views and wishes are represented at the meeting.
- Ensure that the views of family members are considered as appropriate and in line with the consent of the adult at risk.
- Ensure that all agencies that have been involved with the adult at risk are consulted and invited to the meeting (including the voluntary sector).
- Ensure that a clear summary is made of the main points discussed, all recommendations and all decisions.
- Ensure that there is clarity about who is monitoring and updating on any identified risks.
- Arrange a further meeting unless agreed by all parties this is not necessary.
- Circulate minutes of the meeting.

All partner agencies invited should:

- Commit to attendance.
- Commit to undertake any recommendations where they are the appropriate agency to follow up.

The meeting must determine which organisation will take responsibility for being lead agency in a case, and which practitioner will act as the key co-ordinating worker. Each subsequent multi-agency meeting should be convened by that lead agency and review the effectiveness and appropriateness of the decision about lead agency and key worker.

Individual agencies will have their own risk assessment formats and policies relevant to their service area. Where available these need to be shared and discussed alongside all the other detail discussed in the meeting.

The meeting will determine/agree:

- The level of risk
- The action plan with clear lines of accountability as to who will do what and when, including how people not engaging with be monitored.
- when the person should be reviewed again, based on the individual circumstances, level of perceived risk & actions agreed to be taken outside the meeting.
- The person's capacity and (if applicable) agree a best interest meeting.
- Agree where the risk has reduced and no further meetings are necessary.
- Agree who will update the individual and family members.
- If the risks to the safety and wellbeing of the individual and/or others are deemed critical then:

Decisions and actions proportionate to the level of risk and professional responsibility should be recorded. Appropriate actions should be formulated according to the risk posed.

(a) Ensure there is legal representation at the meeting to ensure all reasonable legal options have been explored. N.B. The outcome may be one which confirms that the agencies involved have undertaken all reasonable steps within their powers, as the law is clear that there are circumstances where intervention could be illegal.

(b) Ensure there are carefully documented minutes/summary of the meeting outlining the risks and decisions taken and any legal framework used in the decision (including clear documentation of capacity issues).

(C) It is essential that all those who are involved in working with the individual, whether in a paid or voluntary capacity, have the opportunity to raise concerns and voice their views about the level of risk for the individual. If some agencies still feel that there is too much risk to walk away from the case, then the multi-disciplinary meeting needs to consider if there is a need for an agreed method of engagement with the individual to monitor and review the situation or simply to build up a more trusting relationship that may lead to engagement with services in the future.

(D) If Safeguarding are not involved, a referral under safeguarding adults could be made alongside convening a multidisciplinary meeting or be the result of the meeting.

Safeguarding Adults Referral and Section 42 Enquiry

This level of response is appropriate where an adult is at higher risk and unable to protect themselves from harm - most likely to be appropriate where there are issues of fluctuating capacity and significant (high) risk with any additional safeguarding concerns (which could include coercive behaviour from a carer).

Safeguarding Adults Referral Criteria

The Care Act (2014) (section 42) states that safeguarding duties apply to any adult who:

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

Once a self-neglect or hoarding case is within the safeguarding remit, a decision will be made in line with policies around the agency best suited to undertake the enquiries or work with the adult at risk. Adult Social Care retains the responsibility for co-ordination and having assurance that risk has been managed appropriately before any closure can take place.

Risk assessment in cases of hoarding should take into account the Clutter Image Scale.

The case can be transferred out of a section 42 enquiry and into a multidisciplinary process with Multidisciplinary Risk Management Meeting at any time if appropriate once an initial safeguarding meeting has been held.

The Complex Needs Panel

As an additional option for highly complex cases, cases of self-neglect and hoarding may be referred to the Complex Needs Panel (pilot).

The Complex Needs Panel is a recent development by partners. It was originally created to consider any cases where the client is homeless or at risk of homelessness, and has at least one other support need – e.g. substance misuse, social care, mental health, hoarding etc. However, as part of the complex Needs Panel pilot, the chair of the panel has agreed to consider self-neglect and hoarding cases in addition to homeless / at risk of homelessness cases.

The purpose of the complex needs panel is to hear cases where everything has been tried but the risks have remained / increased.

Before referring, partners must have organised and ensured good attendance in at least one Multi-Disciplinary Risk Management meeting prior to the referral. The lead agency will continue to own and coordinate the case – the panel can "unlock" other services, but does not hold cases itself.

All cases will be presented to the panel by the lead agency, so that this agency can fully discuss the details of the case, and receive advice from the panel directly. Referrals must be made at least one week in advance of the panel meeting taking place.

Further instructions in relation to the referral process can be found in the updated Complex Needs Panel Guidance Notes and the Practitioner Toolkit.

The Complex Needs Panel pilot is due for review in the summer of 2020. Therefore, the review of the self-neglect and hoarding policy and procedure will take place at the same time.

Service Refusal

If an adult at risk refuses or declines an assessment, services or support, a risk assessment must be carried out to determine the level of seriousness of each identified risk.

- Intervention must be person centred, involving the individual as far as possible in understanding the risk assessment and the alternatives for managing the risk.

- Information should be shared with other relevant professionals who may have a contribution to make in managing or monitoring the risks.

- Consideration must be given to the mental capacity of the individual and whether they require support in their decision-making.

- Following an assessment that the individual lacks capacity, best interest decisions need to be considered. In cases where the individual refuses help and services and is seen to be at grave risk as a result, if an agency is satisfied that the individual has the mental capacity to make an informed choice on the issues raised, then that person may have the right to make their own choices, even if these are considered to be unwise. However, in cases of significant vulnerability there should be on-going attempts at engagement with the individual, applying the principles outlined in this guidance to monitor risk and continue to build up a relationship with the individual. Consideration will also need to be given to whether to request the High Court to invoke its inherent jurisdiction.

However, it is important that all possible legal options are considered, such as action under the Mental Health Act 1983 or environmental health law.

Assurance Framework

Self-Neglect forms part of the Safeguarding Adults Board Strategic Plan. The Safeguarding Adults Board Brent will ask for the following information to be presented at selected board meetings to seek assurance that this area of practice is monitored at a board level:

The number of self-neglect concerns received into adult Safeguarding.

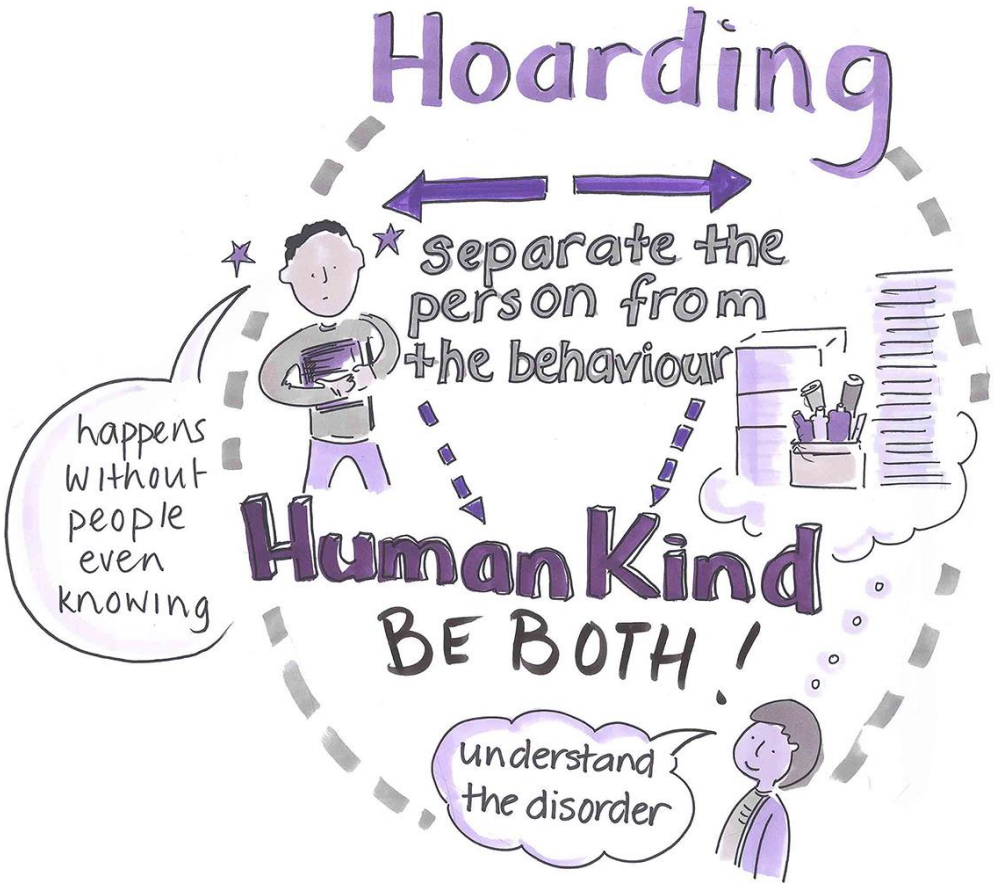
The number of self-neglect concerns that proceeded to a Section 42 Enquiry.

The number of self-neglect cases with the risks are moderate to high held by care management teams.

The number of Multidisciplinary Risk Management Meetings that took place.

Which partners had not attended or did not engage in Multidisciplinary Risk Management Meetings.

An annual / bi annual case file audit, the results of which will be presented at the Safeguarding Adults Board.



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 is 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. It is not necessarily an exhaustive list and in all cases legal advice should be sought as appropriate.

Human Rights Act 1998

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

Article 5 – Right to Liberty and Security

Everyone has the right to liberty and security of persons.

Article 8 – Right to Respect for Private and Family Life

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

Article 2 – Right to Life

Article 3 – Right to Live Free of Inhuman and Degrading Treatment

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

The First Protocol Article 1 – Protection of Property

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

Where it is necessary to balance one person's human rights with those of another, or in cases where the above rights conflict with one another, decision-making will have to show how the balance between rights was struck, and the rationale for decisions reached.

Environmental Health

Environmental Health Officers in the Local Authority have wide powers/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 for LA to remove accumulations of rubbish on land in the open air (Section 34)
- Power of entry/warrant to survey/examine (Sections 239/240)
- Power of entry/warrant for examination/execution of necessary work (Section 287)
- Power to require vacation of premises during fumigation (Section 36)
- Power to disinfest/destroy verminous articles at the expense of the owner (Section 37)
- 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)

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 allows 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 behaviour 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 anti-social 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 co-operate with a support service to address the underlying issues related to their behaviour.

Powers of Entry

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

If the person has been assessed as lacking mental capacity in relation to a matter relating to their welfare: the Court of Protection has the power to make an order under Section 16(2) of the MCA relating to a person's welfare, which makes the decision on that person's behalf to allow access to an adult lacking capacity. The Court can also appoint a deputy to make welfare decisions for that person.

If an adult with mental capacity, at risk of abuse or neglect, is impeded from exercising that capacity freely: the inherent jurisdiction of the High Court enables the Court to make an order (which could relate to gaining access to an adult) or any remedy which the Court considers appropriate (for example, to facilitate the taking of a decision by an adult with mental capacity free from undue influence, duress or coercion) in any circumstances not governed by specific legislation or rules.

If there is any concern about a mentally disordered person: **Section 115 of the MHA** provides the power for an approved mental health professional (approved by a local authority under the MHA) to enter and inspect any premises (other than a hospital) in which a person with a mental disorder is living, on production of proper authenticated identification, if the professional has reasonable cause to believe that the person is not receiving proper care.

If a person is believed to have a mental disorder, and there is suspected abuse or neglect: Section **135(1) of the MHA**, a magistrates court has the power, on application from an approved mental health professional, to allow the police to enter premises using force if necessary and if thought fit, to remove the person to a place of safety if there is reasonable cause to suspect that they are suffering from a mental disorder and (a) have been, or are being, ill-treated, neglected or not kept under proper control, or (b) are living alone and unable to care for themselves.

Power of the police to enter and arrest a person for an indictable offence: **Section 17(1) (b) of the Police and Criminal Evidence Act 1984** (PACE) (1984 c. 60).

Common law power of the police to prevent, and deal with, a breach of the peace. Although breach of the peace is not an indictable offence the police have a common law power to enter and arrest a person to prevent a breach of the peace.

If there is a risk to life and limb: **Section 17(1)(e) of PACE** gives the police the power to enter premises without a warrant in order to save life and limb or prevent serious damage to property. This represents an emergency situation and it is for the police to exercise the power.

Anti-Social Behaviour 2003 (as amended)

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

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

Misuse of Drugs Act 1971

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

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

s8 (a) Producing or attempting to produce a controlled drug…

s8 (b) Supplying or attempting to supply a controlled drug to another ……or offering to supply a controlled drug to another….

s8 (c) Preparing opium for smoking

s8 (d) Smoking cannabis, cannabis resin or prepared opium’

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.

Section 2 - Admission for Assessment

Duration of detention: 28 days maximum

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

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

a) The patient is suffering from a mental disorder of a nature or degree which warrants detention in hospital for assessment (or assessment followed by medical treatment) for at least a limited period; and

b) S/he ought to be detained in the interests of his/her own health or safety or with a view to the protection of others.

Section 3 – Admission for Treatment

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

Application for admission: by nearest relative or Approved Mental Health Professional in cases where the nearest relative consents, or is displaced by County Court, or it is not ‘reasonably practicable’ to consult him/her

Procedure: two doctors must confirm that:

a) The patient is suffering from a mental disorder of a nature or degree which makes it appropriate for him/her to receive medical treatment in hospital; and

b) it is necessary for his/her own health or safety or for the protection of others that he/she receives such treatment and it cannot be provided unless s/he is detained under this section; and

c) Appropriate treatment is available to him/her

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

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

Section 117 allows for aftercare following a section 3 detention.

Section 7 of the Mental Health Act 1983 – Guardianship

Guardianship 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.

Mental Capacity Act 2005

Five Key Principles to determine Mental Capacity

Principle 1:

A presumption of capacity – every adult must be assumed to have capacity to do so unless it is proved otherwise. This means that it cannot be assumed that someone cannot make a decision for themselves just because they have a particular medical condition or disability.

Principle 2:

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

Principle 3:

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

Principle 4:

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

Principle 5:

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

Professionals must act in accordance with guidance given under the Mental Capacity Act Code of Practice (DCA, 2007) when dealing with those who lack capacity and the overriding principle is that every action must is 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 to make a relevant decision (for example if they are unable 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 because of an impairment or disturbance in the functioning of their mind or brain), 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 (including the need to consider a court authorisation). Consideration needs to be given to whether or not any steps to be

taken require a Deprivation of Liberty Safeguards application if a person is moving into a hospital or care home.

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 may 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

An urgent or emergency court order can be applied for in certain circumstances, e.g. a serious situation when someone's life or welfare is at risk and a decision has to be made without delay. However, a court order will not be obtained 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.

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 behaviours towards the person concerned.

In all such cases legal advice should be sought.

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 Department for Environment, Food & Rural Affairs (DEFRA).

Under the Regulatory Reform (Fire Safety) Order 2005 the London Fire Brigade can serve a prohibition or restriction notice to an occupier or owner of a flat where there is a risk to other occupiers/residents; this notice would take immediate effect. This option does not apply to premises such as detached/semi-detached/town houses or other premises consisting of or comprised in a house which is occupied as a single private dwelling.

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