

## Resource 1: Self-Neglect Legal Literacy

Legal advice should be sought in individual cases by professionals as appropriate. To support practice a brief overview of relevant legislation and its impact on practice is collected below:

AGENCY	LEGAL POWER AND ACTION	APPLICATION
<b>High Court</b>	<p><b><u>Inherent jurisdiction of the High Court:</u></b>            The High Court has powers to intervene in cases whereby an individual may still have capacity but may be under undue influence of others or at serious risk. But it should be noted that the presumption is always to protect the individual's human rights. Legal advice should be sought before taking this option.</p>	<p>In extreme cases of neglect, where a person with capacity is at risk of serious harm or death and refuses all offers of support or interventions or is unduly influenced by someone else, taking the case to the High Court for a decision could be considered.</p>
<b>Local Authority and Police</b>	<p><b><u>Human Rights Act, Article 8: Right to respect for private and family life</u></b>             'Everyone has the right for his private and family life, his home and his correspondence.....There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and 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 for the protection of the rights and freedoms of others'.</p>	<p>In self-neglect cases article 8 restrictions allow (or prevent) public authorities interference with the persons private and/or family life, dependent on whether it can be shown that the action has a proper basis in law, and is necessary and proportionate in order to do so.</p> <p>'Basis in law' means properly using a particular piece of legislation to achieve the aim, 'necessary and proportionate' responses are ones that are no more than is required to achieve the necessary aim and not excessive in the circumstances.</p>
	<p><b><u>Protection of property (Protocol 1, Article 1, Human Rights Act)</u></b>            'Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law'.</p>	<p>In self-neglect cases article 1 restriction can allow interference by the state in the right to peaceful enjoyment of property, for example, by restricting the use of it or by taking it away, but would only be possible where the authority can show that its action has a proper basis in law and it is necessary in the public interest. The threshold applied by Courts can be very high in order to prevent unnecessary intervention by the state.</p>
<b>All Agencies</b>	<p><b><u>Mental Capacity Act 2005: Section 4 Best Interests</u></b>            If a hoarder has been assessed as lacking capacity regarding their</p>	<p>Professionals are advised to develop effective working relationships with those that self-neglect and hoard in order to</p>

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	<p>hoarding then a best interest's decision can be taken on their behalf. Depending on the situation, an application may be required to be made to the Court of Protection, please seek legal advice.</p> <p>This applies whether decisions are life changing events or more every day matters and is relevant to adults of any age, regardless of when they lost capacity.</p> <p>The underlying philosophy of the MCA is to ensure that those who lack capacity are empowered to make as many decisions for themselves as possible and that any decision made, or action taken, on their behalf is made in their best interests.</p> <p>Details of the Acts principles can be found here:  <a href="http://www.scie.org.uk/mca-directory/keyprinciples.asp">http://www.scie.org.uk/mca-directory/keyprinciples.asp</a></p>	<p>empower them to address the evident risks and concerns. However, the Mental Capacity Act gives professionals the authority to override the wishes of people who lack capacity to make a decision about specific matters if this is in their best interests and a proportionate response to the harm that would otherwise occur.</p> <p>In assessing capacity 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.</p>
<p><b>Local Authority &amp; All agencies</b></p>	<p><b><u>The Care Act 2014 : Section 9: Assessing an adult's needs for care and support</u></b></p> <p>The offer of an assessment should be made to the adult because it will likely appear to the local authority that the adult may have care and support needs.</p> <p><b><u>Section 42: Safeguarding</u></b></p> <p>Hoarding may qualify as self-neglect and also pose a safeguarding risk to others, for example other family or carers.</p> <p><b><i>Please note that this Act does not provide a right of entry.</i></b></p>	<p>Councils have a legal duty to assess needs where a concern has been raised about a person's health and wellbeing.</p> <p>All agencies can raise a Safeguarding Concern. However it should be noted that Care Act Statutory Guidance (link) was revised in March 2016 to recognise that not every case of self-neglect is a safeguarding matter due to the absence of "abuse or neglect" by a third party. Therefore not every case will meet requirements to raise a safeguarding concern.</p>

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<b>Environmental Health</b>	<p><b><u>Public Health Act 1936 Section 83: Cleansing of filthy and/or verminous premises</u></b>  Where any premises is found to be;  In such a filthy or unwholesome condition as to be prejudicial to health; or verminous (relating to rats, mice other pests including insects, their eggs and larvae)  Then the LA can serve a notice requiring clearance of materials and objects that are filthy, cleansing of surfaces, carpets etc. within a specified time period. This is generally a minimum of 21 days. If not complied with, Environmental Health (EH) can carry out works in default and recharge the costs. Appeal provisions are in place.</p>	<p>This is often where there is a lack of engagement or co-operation of occupier to address significant hoarding behaviour that has led to infestations of vermin etc.</p> <p>There must be likelihood of adverse health effect to occupant or rodents or insects present.</p> <p>There may also be complaints from neighbours which must be investigated by the Council</p>
	<p><b><u>Section 79: Power to require removal of noxious matter by occupier of premises</u></b></p>	<p>This is seldom used as there is more appropriate legislation. If it is used it would generally be in respect of outdoor areas. Allows the cost to be recharged.</p>
	<p><b><u>Section 84: Cleansing or destruction of filthy or verminous articles</u></b>  Any article that is so filthy as to need cleansing or destruction in order to prevent injury to persons in the premises or is verminous.</p>	<p>The Local; Authority can serve notice requiring the identified article to be cleansed, purified, disinfected or destroyed at their expense. This section is also seldom used, if it were to be used it would be in conjunction with action taken under section 83.</p>
	<p><b><u>Environmental Protection Act 1990</u></b>  <b><u>Section 79: Statutory nuisances and inspections therefor.</u></b>  Statutory Nuisances (SN) are defined in Section 79 of the Act and include the following:</p> <ul style="list-style-type: none"> <li>• any premises in such a state as to be prejudicial to health or a nuisance</li> <li>• fumes or gases emitted from [private dwellings] premises so as to be prejudicial to health or a nuisance</li> </ul>	<p>'Nuisance' means something which interferes with another's land (or more rarely the population at large). To apply premises must be in such a state that they are prejudicial to healthy or a nuisance to neighbours. This may be from condition of the premises, accumulations, deposits or even animals kept in unsanitary conditions.</p> <p>Intervention often prompted by complaints from neighbours. For exceptional situations where widespread nuisance to</p>

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	<ul style="list-style-type: none"> <li>any accumulation or deposit which is prejudicial to health or a nuisance</li> <li>any animal kept in such a place or manner as to be prejudicial to health or a nuisance</li> </ul> <p><b><u>Section 80: Summary proceedings for statutory nuisances.</u></b>            Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—</p> <ul style="list-style-type: none"> <li>requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;</li> <li>requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes;</li> </ul> <p>and the notice shall specify the time or times within which the requirements of the notice are to be complied with. Appeal provisions are in place. Environmental Health (EH) can also carry out works in default and recharge the costs.</p>	<p>neighbours continues after intervention and usually after service of notice.</p> <p>It is the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.</p> <p>Can be used in cases of owned property.</p>
	<p><b>Housing Act 2004</b>            Identifies that local housing associations have the responsibility to assess hazards –category 1 (serious and immediate risk) and 2 (less serious or urgent risk). If these are found then they have to assess the probable harm outcomes and likelihood of occurrence.</p> <p>Where hazards are found the Local Authority can do the following:            Section 11 – serve an improvement notice            Section 20 serve a prohibition order</p>	<p>If homes have damp, mould, pests (rats, mice or cockroaches), ineffective heating, faulty wiring or fire risks then they will potentially have hazards. This can mean the Local Authority can carry out an assessment and explore options that might encourage someone to improve their home conditions.</p> <p>For a list of the 29 Hazards assessed against see the link below:</p>

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	<p>Section 28 serve a hazard awareness notice  Section 40 &amp; 43 take emergency remedial action or emergency prohibition</p> <p><b><u>Prevention of Damage by Pests Act 1949</u></b>  <b><u>Section 4: Power of LA to require action to prevent or treat rats and mice</u></b>  Notice may be served on the owner or occupier of land/ premises where rats and/or mice are or may be present due to the conditions at the time. However there is no power of entry available under this section, so if refused access to carry out works in default the LA are unable to enter.</p>	<p><a href="http://www.staffordbc.gov.uk/housing-health-and-safety-rating-system-the-29-hazards">http://www.staffordbc.gov.uk/housing-health-and-safety-rating-system-the-29-hazards</a></p> <p>Powers usually used for accumulations of rubbish or items attracting/ harbouring rodents on private land. This is usually used for external parts of property e.g. gardens.</p> <p>The notice served on the owner or occupier would specify a reasonable period of time in which to carry out reasonable steps to eradicate the rats/mice from the land/premises. This could entail pest control treatment, requirement to remove materials that may feed or harbour them and carry out necessary structural works.</p> <p>The LA may carry out works in default if the Notice is not complied with and charge for this.</p>
<p><b>Social Landlords including Councils and Housing Associations</b></p>	<p>Injunctive or possession proceedings by Landlord for breach of tenancy or lease conditions under relevant <b>Housing Acts</b> depending on type of tenure</p>	<p>Enforcement of tenancy conditions can include an injunction (a court order to comply with the conditions of the tenancy, breach of which can lead to a fine) or a possession order to evict the tenant from the property for breach of tenancy conditions related to the hoarding. This can include damage to the premises and nuisance caused to the Landlord and/or neighbours.</p> <p>However, this will likely be a last resort in cases where continued habitation is not possible. The eviction of the person self-neglecting is unlikely to resolve the problem – simply move it elsewhere.</p>
<p><b>Police</b></p>	<p><b>Power of Entry – (S17 of Police and Criminal Evidence Act)</b></p>	<p>Information that someone was inside the premises was ill or</p>

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	Person inside the property is not responding to outside contact and there is evidence of danger.	injured and the Police would need to gain entry to save life and limb
<b>Housing</b>	<p><b>Anti-Social Behaviour, Crime &amp; Policing Act 2014</b></p> <p>A civil injunction can be obtained from the County Court if the court is satisfied that the person against whom the injunction is sought has engaged or threatens to engage in anti-social behaviour, or if the court considers it just and convenient to grant the injunction for the purpose of preventing the person from engaging in anti-social behaviour.</p>	Conduct by the tenant which is capable of causing housing-related nuisance or annoyance to any person. "Housing-related" means directly or indirectly relating to the housing management functions of a housing provider or a local authority
<b>Fire &amp; Rescue Service</b>	<p><b>Prohibition or Restriction of use Article 31 Regulatory Reform (Fire Safety) Order 2005</b></p> <p>Dangerous conditions can be reported or discovered by station personnel during an operational risk visit, following attendance at an operational incident, or by a Fire Protection Inspector (FPI) subsequent to a complaint or during a routine audit.</p> <p>The fire brigade can serve a prohibition or restriction notice to an occupier which will take immediate effect. In some circumstances this can apply to domestic premises including single private dwellings where the appropriate criteria of risk to relevant persons apply.</p>	<p>If a premise involves such risk to persons so serious that the use of the premises ought to be Prohibited or Restricted notice can be served on the responsible person (owner/occupier).</p> <p>In order to document the appraisal of the risk the FPI must ensure that a Fire Safety Audit form is completed in all potential Article 31 cases. The audit form should be used to confirm the deficiencies contributing to the overall risk and may be used in evidence in any subsequent prosecution or appeal.</p>
<b>Animal Welfare agencies such as RSPCA</b>	<p><b>Animal Welfare Act 2006 Offences (Improvement notice)</b></p> <p>Education for owner a preferred initial step, Improvement notice issued and monitored, If not complied can lead to a fine or imprisonment</p>	<p>Cases of Animal mistreatment/ neglect.</p> <p>The Act makes it not only against the law to be cruel to an animal, but that a person must ensure that the welfare needs of the animals are met.</p>
<b>Local Authority &amp; 5 Boroughs Partnership</b>	<p><b>Mental Health Act 1983 Section 135(1)</b></p> <p>This allows professionals to remove someone to a place of safety for a mental health assessment – frequently referred to as being sectioned. The police officer must be accompanied by an Approved Mental Health Professional (AMHP) and a doctor.</p>	<p>Evidence must be taken to court by an AMHP that there is reasonable cause to believe that a person</p> <ul style="list-style-type: none"> <li>• Is suffering from mental disorder, and is being</li> <li>• Ill treated, or</li> <li>• Neglected, or</li> <li>• Being kept other than under proper control, or</li> </ul>

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	<p>If they believe the above may be applicable and then remove the individual to a "Place of safety" this can be a station or hospital. This then allows for doctors to seek a section for 72 hours whilst assessments are carried out under the Mental Health Act.  <a href="https://www.rethink.org/resources/s/section-135-factsheet">https://www.rethink.org/resources/s/section-135-factsheet</a></p>	<ul style="list-style-type: none"> <li>If living alone is unable to care for self</li> </ul> <p>And that the action is a proportionate response to the risks involved.</p>
	<p><b>Section 4 of the Mental Health Act 1983.</b>            Used in emergency situations. In any case of 'urgent necessity'. The criteria for detention mirror Section 2 but Section 4 may be used in cases of emergency where it has not been possible to secure an assessment by a second doctor.</p> <p>This section expires after 72 hours unless a second medical recommendation is received within this time period.</p>	<p>In any case of 'urgent necessity' an application may be made by an AMHP or Nearest Relative and founded on one medical recommendation made by, if practicable, a doctor with previous knowledge of the person or a Section 12 approved doctor, they must have seen you within the last 24 hours. A person can be detained under a s4 if:</p> <ul style="list-style-type: none"> <li>they need an assessment or possible medical treatment; and</li> <li>they need to be detained in the interests of their own health, own safety or to protect other people; and</li> <li>it is urgent and necessary that they are admitted and detained under section 2; and</li> <li>using section 2 would involve an "undesirable delay" - meaning it might take longer than normal to carry out a s2 assessment</li> </ul>
	<p><b><u>Mental Health Act 1983: Section 2: Admission for Assessment</u></b>            This section would allow a hoarder to be admitted to hospital against their will if:</p> <ul style="list-style-type: none"> <li>They suffer from a mental disorder to the degree which warrants their detention in hospital for a limited period of time for the purposes of assessment; and</li> <li>They ought to be detained for their own protection or the protection of others</li> </ul> <p>Please note there is a power of entry by the police on grant of a warrant.</p>	<p>An application for admission to hospital under s2 must be made by an AMHP or the nearest relative. This must be done within 14 days of making this application and involve 2 doctors.</p> <p>This can allow detention for up to 28 days during which time a decision to release or transfer to section 3 would be required. Under this section treatment can also be given, with some exceptions.</p>

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	<p><b>Section 3 of the Mental Health Act 1983</b>            Often used when the person is well known to mental health services this section requires the same principles noted under section 2 and involves the same processes of application.</p> <p>This section allows for the person to be detained for up to 6 months with the option to be renewed for a further 6 months.</p> <p>For further details on Sections 2-4 please use the following link  <a href="https://www.rethink.org/living-with-mental-illness/mental-health-laws/mental-health-act-1983/sections-2-3-4-5#s4">https://www.rethink.org/living-with-mental-illness/mental-health-laws/mental-health-act-1983/sections-2-3-4-5#s4</a></p>	<p>Same as s2 - An application is made by an AMHP or nearest relative, within 14 days of seeing you. 2 separate doctors will then see the individual, one with specialist training and within 5 days of each other.</p> <p>Admission to hospital will take place within 14 days of the last medical assessment.</p>