



Thursday 13th June - Self-Neglect and Mental Capacity

I hear the term self-neglect a lot at the moment, but surely, someone can decide how to live his or her own life?

Self-neglect refers to a lack of self-care to the extent it can threaten an individual's personal health and safety. It covers a wide range of behaviours where a person neglects to attend to their basic care and support needs, such as personal hygiene, appropriate clothing, feeding or tending appropriately to any medical conditions they may have.

One of the challenges when people are self-neglecting is understanding what support they may need, for some people this may be regular contact from someone who can support them reduce the amount of belongings in their house, other people however may not be able to engage with this support due to their capacity.

You are right though in thinking that someone does have the choice to live their lives in the way that they wish. However, there are some occasions where the person's thought processes are such that this becomes difficult or they may have some kind of mental impairment or disability, which affects their ability to make decisions for themselves. This is referred to as mental capacity.

How does capacity impact on someone's ability to care for themselves?

The Mental Capacity Act (MCA) is designed to protect and empower people, 16 and over, who may lack the mental capacity to make their own decisions about their care and treatment because of an illness or disability such as a mental health need, dementia or a learning disability. However, it is important to remember that just because someone may have a disability does not necessarily mean they may lack capacity. The Mental Capacity Act urges us as one of its first principles to assume that in the first instance people will have capacity.

Mental Capacity covers decisions about day-to-day things but also covers more serious decisions, such as refusing treatment for an illness, or going into a care home. One of the principles underlying the Mental Capacity Act is that the assessment of capacity should be for specific decisions and are time specific meaning that you cannot someone's capacity for all aspects of their life or use an

assessment that may have been undertaken some time ago to make a decision in the future.

Headway has produced excellent information on this area

<https://www.headway.org.uk/about-brain-injury/individuals/effects-of-brain-injury/executive-dysfunction/>

Additionally Essex St Chambers helpfully publishes this guide to assessing capacity

<https://www.39essex.com/mental-capacity-guidance-note-brief-guide-carrying-capacity-assessments/>

It sounds straightforward then to decide whether someone has capacity in this area, is it?

There are many instances where the decision on which you are assessing capacity is straightforward and simple e.g. making a decision on what someone would like for lunch where the individual is not necessarily able to make that decision for themselves.

However, there are many situations, which require more complex decision-making and consequently more in-depth capacity assessments. You may have to find different ways of giving someone the information they need to make the decision. You may need to speak to a number of people who may have knowledge about what is going on in that person's life or indeed what has happened in their past. This may include thinking about how the effect of a loss, serious event or bereavement, to cite a few examples may be affecting their ability to make certain decisions at certain times.

What if the person continues to tell me that they are fine?

Whilst it is understandable that our first instinct is to want to believe what the individual is telling us, it is better in situations particularly involving self-neglect to be a little more 'curious' about what they are telling us and the Mental Capacity Act encourages us to do this.

There are a number of ways in which we can explore that curiosity with the individual, including thinking about the processes by which they may undertake a task, asking them to both explain and show you. You may have heard this referred to as executive functioning.

It is important to remember that executive functioning is not something new and separate from the Mental Capacity Act! However, it is leading to questions about its application as it is increasingly being introduced into our everyday language around mental capacity. Rather this is an umbrella term for abilities such as planning, problem solving, motivation etc. These deficits may be subtle to detect and the individual may have developed strategies to prevent their detection. Therefore, any

assessments should consider how decision-making might affect the ability of the person to 'weigh up information and arrive at a decision'. The Mental Capacity Act is still our primary legislation for assessing capacity and executive functioning is a strategy or tool within that assessment.

Remember that it is important to ensure that all information is recorded fully and that where required you make the distinction between fact and professional opinion.

Please see the learning from two recent SARs in B&NES with the theme of self-neglect, SAR John [Practitioners Briefing SAR John](#) and SAR Jane [Practitioners Briefing SAR Jane](#)

What happens if the person assessed as having capacity to make decisions that could be considered as unwise and placing them at risk?

The Court of Protection exists to safeguard vulnerable people who lack the mental capacity to make decisions for themselves. These decisions may relate to the person's finances or their health and welfare.

Prior to the introduction of the MCA and Court of Protection, the High Court exercised jurisdiction in relation to incapacitated people. However, this has been extended over time to what is referred to as inherent jurisdiction to 'vulnerable' adults who are assessed as having capacity but require protection for certain reasons such as being under constraint, coercion or undue influence.

I'm not a professional working in this area so surely there's nothing I can do about this is there.

Not everyone in our community has someone in their lives who is able to notice the signs that someone may not be looking after themselves or their environment so it may be a neighbour, a utility services worker or someone you notice on a day-to-day basis. You can still help by being aware of some of the possible signs such as someone beginning to look unkempt, perhaps having suddenly lost weight, their house/flat not being attended to as they previously would have, keeping themselves to themselves and not allowing people into the property.

