

Agency	Legal Power and Action	Circumstances requiring intervention
All	Mental Capacity Act 2005	An assessment should be carried out when an adult's capacity is in doubt. If the adult is assessed as lacking capacity, any decisions should be made in their best interests and the least restrictive option available. Refer to guidance for more detail.
Adult Social Care	Care Act 2014 – Section 9 or 11 Needs assessment	Section 9 of the Care Act states that where it appears to a Local Authority that an adult may have needs for care and support, the authority must assess: Whether the adult does have needs for care and support, and If the adult does, what those needs are. Under Section 11(2) of the Care Act there is a duty to undertake an assessment of the adult's care and support needs despite their refusal in situations where: They lack capacity to refuse the assessment and it would be in their best interests. The adult is experiencing, or at risk of, abuse and neglect.
Adult Social Care	Care Act 2014 Section 18 – Duty to meet needs for care and support	The Local Authority must meet the adults needs for care and support which meet the eligibility criteria.
Adult Social Care	Care Act 2014 Section 42	The Care Act 2014 requires the Local

		<p>Authority to make enquiries, or cause enquiries to be made, in cases where the Local Authority has reasonable cause to suspect that an adult in its area:</p> <ul style="list-style-type: none"> a) Has needs for care and support (whether or not the local authority is meeting any of those needs), b) Is experiencing, or at risk of, abuse or neglect (including self-neglect), and c) As a result of those needs is unable to protect themselves from the abuse or neglect or the risk of it.
Mental Health Services	<p>Mental Health Act 1983. Section 135 (1) Provides for a police officer to enter a private premises, if need be by force, to search for and, if thought fit, remove a person to a place of safety if certain grounds are met. The Police Officer must be accompanied by an Approved Mental Health Professionals (AMHP) and a doctor.</p>	<p>Evidence must be laid before a magistrate by an AMHP that there is reasonable cause to believe that a person is suffering from mental disorder, and is being:</p> <ul style="list-style-type: none"> • ill treated, or • neglected, or • being kept other than under proper control or • If living alone is unable to care for self, and the action is a proportionate response to the risks involved.
Environmental Health	<p>Power of entry/Warrant (s.287 Public Health Act 1936) Gain entry for examination/execution</p>	<p>Non-engagement of person. To gain entry for examination/execution of necessary work (All tenure including Leaseholders/Freeholders.</p>

Legal Interventions and Associated Case Law

	of necessary work required under Public Health Act. Police attendance required for forced entry.	In practice, this should be used as a last resort unless there is a risk to public health and/or a statutory nuisance (Environmental Protection Act 1990). All efforts need to be taken to try to enter the premises and a warrant will only be sought after a number of attempts have been made and/or risk is imminent.
Environmental Health	Power of entry/Warrant (s.239/240 Public Health Act) Environmental Health Officer to apply to Magistrate. Good reason to force entry will be required (all party evidence gathering). Police attendance required.	Non-engagement of person/entry previously denied. To survey and examine (All tenure including Leaseholders/Freeholders)
Environmental health	Enforcement Notice (s.83 Public Health Act 1936) Notice requires person served to comply. Failure to do so can lead to council carrying out requirements, at own expense; though can recover expenses that were reasonable incurred.	Filthy or unwholesome condition of premises (articles requiring cleansing or destruction). Prevention of injury or danger to person served. (All tenure including Leaseholders/Freeholders)
Environmental Health	Section 84, Public Health Act Power to cleanse	Power to cleanse filthy or verminous articles within a dwelling. No provision to recover costs. Typically used where a small number of filthy or verminous items are to be removed from one room of a property. Where a large number of items or several rooms are in filthy or verminous conditions a Section 83 (Notice) is used instead.
Environmental Health	Litter Clearing Notice (Section 92a)	When land open to air is defaced by refuse which is

	Environmental Protection 1990) Environmental Health to make an assessment to see if this option i	detrimental to the amenity of the locality.
Police	Power of Entry (s.17 of Police and Criminal Evidence Act) Person inside the property is not responding to outside contact and there is evidence of danger.	Information that someone inside the premises was ill or injured and the Police would need to gain entry to save life and limb.
Housing	Anti-Social Behaviour, Crime and Policing Act 2014 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 threatened 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.	Conduct by the tenant which is capable of causing housing-related nuisance or annoyance to any person.
Housing	Housing Act 2004 Allows enforcement action where either a category 1 or 2 hazard exists in any dwelling or land posing a risk of harm to the health or safety to actual or potential occupiers. Powers include serving a hazard awareness notice, an improvement notice, a prohibition order or in the case of a category 1 hazard - taking emergency remedial action.	
Housing	Housing Act 1985 (secure tenancies) or Housing Act 1988 (assured tenancies)	The landlord has the right of entry to the property having provided at least 24 hours' notice to: inspect the premises

		and their state of repair. As a last resort in severe cases and having already tried other options first to enable tenancy sustainment, a landlord can take action for possession of the property for breach of tenancy agreement, where a tenant fails to comply with the obligation to maintain the property and its environment to a reasonable standard.
Animal Welfare Agencies, such as the RSPCA	Animal Welfare Act 2006 Offences	Under the Act, owners and keepers have a duty of care to their animals and must make sure that they meet their needs. The Act also prohibits any animal cruelty.

Other Legal considerations:

Human Rights Act 1998: Public bodies have a positive obligation under the European Convention on Human Rights (ECHR, incorporated into the Human Rights Act 1998 in the UK) to protect the rights of the individual. In cases of self-neglect, articles 5 (right to liberty and security) and 8 (right to private and family life) of the ECHR are of particular importance.

These are not absolute rights, i.e. they can be overridden in certain circumstances. However, any infringement of these rights must be lawful and proportionate, which means that all interventions undertaken must take these rights into consideration. For example, any removal of a person from their home which does not follow a legal process (e.g. under the Mental Capacity or Mental Health Acts) is unlawful and would be challengeable in the Courts.

Inherent Jurisdiction of the High Court: In extreme cases of self-neglect where the adult has capacity, is at risk of serious harm or death and is refusing all support and interventions (or may be unduly influenced by another party) there should be consideration of an application to the High Court to use its powers of Inherent Jurisdiction.

Please see the Guidance note: using the Inherent Jurisdiction in Relation to Adults [Mental-Capacity-Guidance-Note-Inherent-Jurisdiction-November-2020.pdf \(39essex.com\)](#)

Adapted from the West Midlands Self-Neglect Best Practice Guidance

Case Law

Capacity/ Living arrangements

[Warrington Borough Council v Y & Ors | 39 Essex Chambers](#) - Warrington Borough Council v Y & Ors [2023] EWCOP 27

Y, a trans woman in her early twenties undergoing hormone treatment and seeking confirmation surgery, was diagnosed with autism and sustained a moderate-severe brain injury in a 2018 traffic accident. This resulted in memory gaps, difficulties with daily activities, cognitive fatigue, and disengagement from support. Living in a rented bungalow with a restrictive care package, the key issue was Y's capacity to make decisions about her care and residence.

The opinions of Dr. Grace and Dr. Todd, experts in neuropsychiatry and neuropsychology, were divided. Dr Grace "forcefully" articulated the opinion that "in common with the rest of the population, she is at risk of making decisions that are potentially harmful when she is anxious or angry." Ultimately, Judge Hayden favored Dr. Todd's view that Y "very clearly" lacked the capacity to decide on her living arrangements and required care.

Alcohol use/medication compliance/executive capacity

[London Borough of Croydon v CD | 39 Essex Chambers](#) - London Borough of Croydon v CD [2019] EWHC 2943 (Fam)

CD was a diabetic and epileptic individual with poor mobility, incontinence, and severe self-neglect, exacerbated by excessive alcohol use. His deteriorating home environment led to frequent falls and non-compliance with medication, making it unsafe for care agencies to assist him. As a result, he often called emergency services and regularly visited local hospitals. Living alone with a limited support network who were known to have similar drug and alcohol misuse problems, CD was resistant to changing his lifestyle or being relocated to a safer environment.

The local authority proposed a twenty-point care plan to ensure access to his flat for necessary support and to improve his living conditions. The court granted an order acknowledging CD's vulnerability, allowing for both statutory and inherent jurisdiction routes for the local authority. However, the Judge deemed it more appropriate for the Local Authority to consider a Mental Capacity assessment around CD's accommodation and healthcare needs.

Hoarding/Capacity

[A Local Authority v X | 39 Essex Chambers](#) – A Local Authority v X [2023] EWCOP 64

X had lived in her local authority rented maisonette for over 27 years. Over the last two years, various services made extensive attempts to address the significant risks posed by level 9 hoarding in her home. Despite efforts from environmental health and mental health services, including a specialist hoarding therapy, progress was limited due to X's anxiety about throwing items away, leading to access refusals.

Ultimately, the local authority sought an order to temporarily remove X from her home to address the risks. Theis J determined that no further support could bring about real change, and the clutter removal could only occur in X's absence. It was deemed in her best interests to be temporarily placed in supported living while the necessary clearance and repairs were made, with plans for her return afterward.

[AC and GC \(Capacity: Hoarding: Best Interests\) | 39 Essex Chambers](#)

AC was 92, experienced Alzheimer's and alcohol related brain damage, she lived with her son, GC, who has Asperger's. anxiety, OCD and depression. Both AC and her son were diagnosed as having hoarding disorder. Concerns were around AC not having her care needs met and returning home following a hospital admission,

The court determined that it was in AC and GC's best interest to enable the family to be supported to have house-clearing and cleaning services enter the property to clean it and make it safe to occupy.

The issue in dispute was whether it was in AC's best interests for a trial to take place at home. One of the principal issues was the risk that GC would continue to hoard (and relatedly (i) the impact of his mental health if items were taken away and (ii) the care package at home would breakdown because of the conditions in the house). Professor Salkovskis therefore provided further evidence to the court in respect of the interactions between GC's obsessive compulsive disorder and hoarding disorder.

The Local Authority's view was that the risk of placement breakdown was too great and that AC should therefore remain in the care home. The Official Solicitor, on AC's behalf, supported a trial at home with a number of conditions on to GC (given he had litigation capacity).

Whilst acknowledging that a trial at home was not without risk, HHJ Clayton was ultimately not satisfied that a final placement at the care home would be an appropriate and justifiable interference with AC's article 8 rights.

Risk

Munby LJ (2007) in his ruling in MM (An Adult) EWHC 2003

[Local Authority X v MM & Anor \(No. 1\) \[2007\] EWHC 2003 \(Fam\) \(21 August 2007\)](#)

The fact is that all life involves risk, and the young, the elderly and the vulnerable, are exposed to additional risks and to risks they are less well equipped than others to cope with. But just as wise parents resist the temptation to keep their children metaphorically wrapped up in cotton wool, so too we must avoid the temptation always to put the physical health and safety of the elderly and the vulnerable before everything else. Often it will be appropriate to do so, but not always. Physical health and safety can sometimes be bought at too high a price in happiness and emotional welfare. The emphasis must be on sensible risk appraisal, not striving to avoid all risk, whatever the price, but instead seeking a proper balance and being willing to tolerate manageable or acceptable risks as the price appropriately to be paid in order to achieve some other good – **in particular to achieve the vital good of the elderly or vulnerable person's happiness. What good is it making someone safer if it merely makes them miserable?**