

Shared Insights

Safeguarding forum: Focus on self-neglect

Panel of speakers

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Mark Barnett – Partner at Browne Jacobson

Adam Fullwood – Barrister at 39 Essex Chambers

Nicki Lovelock – Practice Supervisor, Adult Social Care Team
at Oxfordshire County Council

Jacqui Moyo – Social Worker, Adult Social Care Team
at Oxfordshire County Council



Introduction

This Shared Insights session, chaired by Julia Catherall, Principal Associate at Browne Jacobson, focused on the legal and practical challenges of working with adults who self-neglect, including those who hoard.

Mark Barnett, Partner at Browne Jacobson, provided an overview of self-neglect and the issues that typically arise in the cases that Browne Jacobson deals with. We were delighted to be joined by Adam Fullwood, Barrister at 39 Essex Chambers, who explored the legal frameworks that are applicable when supporting adults in these circumstances. We were also pleased to welcome Nicki Lovelock and Jacqui Moyo, both from the Adult Social Care Team at Oxfordshire County Council, who delved into the practical difficulties of working with individuals who self-neglect. They also discussed strategies to overcome these, with a strong emphasis on a person-centred approach, empathetic engagement and multi-agency collaboration.

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How we can help

Browne Jacobson is proud to offer a team of specialist health and social care lawyers providing legal services to NHS bodies, local authorities, commissioners and independent sector providers of health and social care services. Our team has vast experience of cases involving people who self-neglect, making us well-equipped to provide advice on a broad range of legal issues. This includes:

- Assessing an individual's capacity to make decisions about their care, residence and personal items and belongings.
- Safeguarding duties and responsibilities under the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014
- Advice and representation in health and welfare cases before the Court of Protection, including cases relating to those who self-neglect and hoard.
- The interaction between the Mental Health and Mental Capacity Acts.

- When and how to initiate possession proceedings, when a self-neglecting individual refuses or feels they cannot leave hospital, despite being medically fit for discharge.
- Inquests relating to people who die as a result of self-neglect and/or hoarding.
- Threatened judicial review of social work decisions

More generally, our health and social care team can also advise on:

- Ordinary residence and determining local authority responsibilities.
- Unregulated placements.
- Deprivation of liberty for 16 – 18-year-olds.
- Applications to the inherent jurisdiction of the High Court for proceedings relating to children.

The team works closely with clients to provide advice and representation tailored to their specific needs, particularly in these complex, multi-faceted cases.

Understanding self-neglect and hoarding

Mark Barnett – Partner, Browne Jacobson

Mark opened the session by clarifying the meaning of self-neglect, which includes a lack of self-care to the extent that it threatens personal health and safety and neglecting to care for personal hygiene, health or surroundings. Self-neglect can include an inability or unwillingness to manage personal property and belongings and can include hoarding behaviour. Those who self-neglect often don't seek help or access health and social care services or are unwilling to engage with such services.

Safeguarding duties are set out in the [Care Act 2014](#) (England) and the [Social Services and Well-being \(Wales\) Act 2014](#). Local authorities have a duty to make necessary enquiries and to decide what action should be taken to protect adults who:

- Have care and support needs.
- Are experiencing or are at risk of neglect, which includes self-neglect.
- Are unable to protect themselves against that neglect because of their needs.

Browne Jacobson is often asked to advise local authorities, healthcare providers and integrated care boards (ICBs) in relation to people who self-neglect.

The issues that typically arise include:

- People declining help and support.
- The need to build trust and work alongside the individual's wishes.

- Queries about mental capacity, particularly regarding the person's ability to make decisions about their care needs, support, belongings and living conditions.
- Questions as to whether the [Mental Health Act 1983](#) should be used.

It's important to remember that if a person has capacity to make decisions about their care, support and living conditions, health and social care professionals have limited ability to intervene.

Cases involving individuals who self-neglect may arise in the Court of Protection or the High Court. Court proceedings may be required if there is a dispute regarding the individual's capacity to make decisions or if there is no consensus as to what is in an individual's best interests. The court can make a final decision on these matters. In some instances, self-neglect cases may lead to inquests, when a person has died in unsafe conditions.



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Legal frameworks and court involvement

Adam Fullwood – Barrister,
39 Essex Chambers

Adam highlighted the legal complexity of self-neglect and hoarding cases, which often involve significant decisions, particularly when a person lacks capacity. The court may be asked for authority to remove a person from their home where they desperately want to remain, or to take away possessions that are of significant value to the individual. These are extremely serious and sensitive issues.

Self-neglect cases can engage various legal frameworks – the [Mental Capacity Act \(MCA\)](#), the [Care Act](#) or the [Social Services and Well-being \(Wales\) Act](#) and the [Human Rights Act](#). They may involve possession claims, healthcare treatment issues, hospital discharge problems and inquests.

There are however common features in a lot of these cases. In Adam's experience, individuals who self-neglect tend to be older (particularly those that hoard), they often live alone and can be socially isolated. However, many individuals present as high-functioning and appear to have capacity to make decisions.

Mental capacity and assessments

Adam highlighted two Court of Protection cases that should be considered when assessing an individual's capacity in the context of self-neglect:

[AC and GC \(Capacity: Hoarding: Best Interests\) \[2022\] EWCOP 39:](#)

- This case involved a 92-year-old woman with a diagnosis of Alzheimer's and hoarding disorder. AC had been moved to a care home after an order to clean her house had been made. The local authority was concerned that AC's care and support needs could not adequately be met if she returned home.
- In Court of Protection cases, judges identify factors that are of "magnetic importance" to P. In this case, AC's strong sense of belonging to her home and her environment were the magnetic factors that meant it was in AC's best interests for her to have a trial of care at home.

Whilst such a trial was not without risk, the judge concluded that it was a manageable one.

[A Local Authority v X \[2023\] EWCOP 64:](#)

- X was a tenant in a local authority rented property and had a diagnosis of hoarding disorder and obsessive-compulsive disorder. Her hoarding was at level 9, but she refused access to allow for enforced clearance. Due to the risks associated with the hoarding, the local authority sought an order to temporarily remove X from her home to enable the risks to be addressed.
- The judge referenced the test for capacity as set out in the Supreme Court case of [A Local Authority v JB \[2021\] UKSC 52](#). The judge emphasised that the initial focus should be on identifying the specific matter requiring the individual's decision, and whether the individual is functionally capable of utilising the relevant information to make an informed decision regarding that matter. Information relevant to the decision includes the reasonably foreseeable consequences of deciding or not deciding the issue.
- The judge took a holistic approach and looked not only at X's capacity to make decisions about her item and belongings, but also her capacity to make decisions about her residence and her care/support. The information relevant to these decisions is set out at paragraphs 93 – 95 of the judgment and includes:
 - What areas the person needs support with.
 - What type of support is required.
 - The consequences of the individual not having or refusing that support.
 - The volume of belongings and the impact on the use of rooms.
 - Safe access and use.
 - Creation of hazards.
 - Safety of the building and removal or disposal of hazardous levels of belongings.

39 Essex Chambers' Guide titled "[Relevant information for different categories of decision](#)" goes through these points in more detail – see pages 8 and 9 in particular.

In the case, the judge noted the significant risks of fire, of X tripping and falling and of the emergency services being unable to get to her (because of poor access) and so on balance, it was in X's best interests to grant the order sought by the local authority.

Clear documentation and record keeping

Adam stressed the importance of record keeping not only in relation to capacity assessments, but also in relation to care assessments under the Care Act and the Social Services and Well-being (Wales) Act. These Acts require assessments to be properly recorded and updated. Even if someone has capacity to make decisions about their care and support needs, the duties under these Acts remain.

In terms of capacity assessments, these could be relied upon in court, so they must be thorough. Best interests decisions also need to be properly recorded, particularly if an order to remove someone from their home or clear their belongings is sought, because this constitutes an interference with that person's Article 8 rights (right to respect for family and private life) under the European Convention on Human Rights. The best interests decision documentation needs to evidence why such an order is both necessary and proportionate.

Documentation is also likely to be scrutinised if a person dies as a result of self-neglect and an inquest is held.

How the courts can assist

Various declarations can be sought from the Court of Protection, the first of which is that the individual lacks capacity to make a particular decision or decisions. However, this often gives rise to legal challenges, as the individual may argue that they do have capacity. Sometimes an individual may have fluctuating capacity and the court may be asked to make an anticipatory order – one which comes into play at the times the individual lacks capacity.

If the court makes a declaration that the individual lacks capacity, then further orders can be sought, e.g. for removing the individual or their belongings from

the property, or for moving the person to a nursing home either temporarily or permanently.

Self-neglecting individuals who refuse to leave an inpatient bed

Sometimes, self-neglecting individuals, particularly those that hoard, may be admitted to hospital. Very quickly they become medically fit for discharge, but their property may be inhabitable, and they may refuse to leave or feel that they cannot leave the hospital. Cooperation with the local authority is crucial in this situation, as ultimately the only remedy may be to seek a possession order.

In [Northampton General Hospital NHS Trust v Mercer \[2024\] EWHC 2515 \(KB\)](#), the High Court judge set out a helpful checklist for a hospital to follow when seeking a possession order in relation to a patient whose refusal to leave hospital may be affected by a mental health or mental capacity issue. This is at paragraph 30 of the judgment. In essence, hospital trusts must consider the following:

- i. Has there been full and holistic preparation of the patient for discharge?
- ii. Have there been all necessary mental capacity assessments of the patient?
- iii. Has the proportionality of possession been assessed?

Further detail on each of these points is contained in the judgment.

The checklist makes it clear that relevant NHS guidance or local policy on patient involvement must be followed. The proportionality of the possession order must be fully assessed and properly documented.

There is a statutory duty of cooperation between NHS bodies and local authorities. The requirements for safe discharge are typically fulfilled if an appropriate place is available for the individual to go, and they are just refusing to leave. Evidence regarding the impact of the individual's refusal to vacate on the ward may be necessary. Challenges may occur when, after obtaining the possession order, the individual returns to the A&E department. This situation can usually be managed by providing relevant information about the individual to the A&E departments.

When seeking a possession order, a “claim for possession” letter is sent first, often followed by a directions hearing. The matter is then listed for trial. The patient is generally not represented so practical arrangements for the patient’s attendance at court should be arranged as soon as possible – by virtual means if necessary.

Inquests and coroners

In cases where a person has died as a result of self-neglect, the following issues are likely to arise:

- Were assessments under the Care Act/Social Services and Well-being (Wales) Act completed?
- Was a capacity assessment carried out?
- Was it documented properly?
- Were best interests decisions made where required, and documented?
- Did the statutory agencies liaise and work together?
- Were steps taken to manage the risks, where possible?
- Is Article 2 engaged in the inquest? To determine the answer to this question, the coroner will be considering whether the deceased was vulnerable and whether there was a risk to their life that the authorities knew or ought to have known about.

Multi-agency working strategies

Adam touched upon the need for statutory agencies to work together in relation to self-neglecting individuals. ICBs will also need to become involved where assessments for continuing health care are required. Landlords may need to cooperate due to their repairing obligations and to ensure the property is habitable. It’s also crucial to engage with family members and friends.

Key takeaways

- Self-neglect cases can engage various legal frameworks, including the [Mental Capacity Act](#), [the Care Act](#), the [Social Services and Well-being \(Wales\) Act](#), the [Human Rights Act](#) and coronial law.
- Mental capacity assessments are crucial in cases of self-neglect.
- Key Court of Protection decisions relating to self-neglect cases include [AC and GC \(Capacity: Hoarding: Best Interests\) \[2022\] EWCOP 39](#) and [A Local Authority v X \[2023\] EWCOP 64](#).
- Clear documentation of capacity and care assessments is essential, particularly when seeking court orders to remove a person from their property or remove their personal belongings, which interfere with Article 8 rights.
- Hospitals wishing to evict self-neglecting individuals from an acute hospital bed must demonstrate that seeking a possession order is necessary and proportionate. The checklist for possession orders set out in [Northampton General Hospital NHS Trust v Mercer \[2024\] EWHC 2515 \(KB\)](#) (paragraph 30) should be followed.
- Inquests into self-neglect deaths will likely consider capacity assessments, documentation, Article 2 considerations and multiagency working.
- Statutory agencies must collaborate in cases of self-neglect, and involve ICBs for continuing healthcare assessments and landlords for property habitable standards.

Practical challenges and multi-agency working

Nicki Lovelock and Jacqui Moyo –
Adult Social Care Team, Oxfordshire County Council

Nicki is a Practice Supervisor within the Adult Social Care Team at Oxfordshire County Council. Her role is to support the practising social workers who are carrying out the frontline work. She provides management and supervision to ensure the team works within its legal frameworks and encourages the social workers to be creative to try to meet the needs of the local community.

Jacqui is a social worker with 15 years' post qualification experience. She assesses individual needs, completes mental capacity assessments and is involved in best interests decision making. Her role is to help people achieve their outcomes and to live how they want to live, but to also minimise and manage risk as much as possible.

Experience of self-neglect and hoarding

Jacqui spoke of a gentleman she worked with, who was self-neglecting and whose case ended up before the Court of Protection. Jacqui emphasised the importance of having a strong network of people who could engage with the individual, as he didn't have any friends or family. Luckily, Jacqui was able to identify an advocacy service that placed itself very much on his side. They didn't question his views or try to make him change his mind and focussed on telling the local authority what he wanted. In this case, the adult social care team worked closely alongside other agencies, including the local mental health service and the gentleman's GP, who was very engaged. The advocacy service became a safe space to whom the gentleman could express his wishes and views, and those were communicated to the local authority team from the outset, which was a real help.

How to support an individual who is self-neglecting and build a relationship of trust

Jacqui explained that she worked with this particular gentleman for a number of years to try and establish what he wanted to achieve for himself and what he recognised as risks. She tried hard to get him to the stage where he could identify certain risks and understand how to manage them. Jacqui did a lot of task-centred work with him, where she would give him a few tasks and go back to see if he had managed to do them. This gave him autonomy and power.

Nicki recognised that there is a tension between risks and giving people autonomy. Her top tip was to be persistent but without being intrusive. For this particular individual, constant doorstepping made him feel anxious and multiple professionals visiting didn't help. The service had to think creatively about how best to engage with him, and this needs to be done in all cases. A fire service can be more acceptable to some people than social care, and others prefer engaging with doctors and nurses. There's a need to think carefully about who is best placed to engage with the individual and who can build a trusting relationship.

In the team's experience, the number of hoarding cases has exploded post-Covid and yet every hoarding person is unique. People hoard in a variety of ways – some are very neat, and others are chaotic and unsafe. The team try to meet the person, both physically and psychologically. Sometimes they meet people at neutral venues, where individuals feel safe to talk. The team tries to understand the psychological make-up of the person and understand what is driving them to hoard. It can often be difficult to arrange formal mental health assessments for individuals and often there is limited background information, so the team really needs to listen to the individual to understand them.

Other self-neglecting individuals, e.g. those neglecting their health needs

Jacqui explained the adult social care team explores whether there are family members available who can support with having those initial conversations. Or whether the district nurse team can support, for example, in explaining the risks about infections developing if care is neglected. Individuals tend to trust a nurse's view.

Where there are multiple risks, the team thinks carefully about which risk or risks to address first, and to identify which agencies and carers to work with to tackle those risks and build relationships. Not every visit has to have a clear outcome – sometimes just sharing a cup of tea with the individual can start to build those trusting relationships. Risks can be managed as progress is made.

Multi-agency working

Nicki explained that one of the major challenges of working with other agencies is managing expectations. The social care team aims for “good enough and safe enough”. Some other people's expectations can be extremely high. No one's home is pristine, and the team works towards achieving something that is comfortable and safe enough for the individual. Can the person get to their bed, chair and kitchen? The team has a lot of conversations with healthcare and fire services about what “good enough” looks like for a particular individual. If a person is hoarding, what is important to them in terms of their belongings? What can they safely keep and what can they be encouraged to let go of? The social care team also works with occupational therapists to ensure mobility needs are addressed.

Systemic changes

Nicki explained that, post-Covid, the team has noticed a real surge in referrals for people who are self-neglecting at home, and a greater number of safeguarding referrals. As a result, Oxfordshire County Council has developed and strengthened its hoarding policies. The team has certain trusted agencies it contracts for blitz cleans. The team has also developed a protocol for hoarding cases, so everyone has a tool and pathway to follow.

Key takeaways

- The importance of having a strong support network and advocacy services for self-neglecting individuals without friends or family was emphasised.
- Building a relationship of trust with individuals who self-neglect involves persistence without intrusion, using trusted intermediaries and creative engagement methods.
- Post-Covid, there has been an increase in hoarding cases, each unique, requiring personalised approaches to understand psychological drivers and manage risks.
- Multi-agency collaboration is essential, with involvement from family members, district nurses, fire services (where necessary) and other healthcare providers.
- Managing expectations between agencies is crucial, aiming for outcomes that are "good enough and safe enough" rather than perfect.
- Systemic changes post-Covid have led to increased referrals for self-neglect and strengthened hoarding policies and protocols in Oxfordshire County Council.

Resources

- For mental capacity assessments, 39 Essex Chambers' Guide titled "[Relevant information for different categories of decision](#)" is helpful.
- The judgments for the two key hoarding cases before the Court of Protection can be found below:
 - [AC and GC \(Capacity: Hoarding: Best Interests\) \[2022\] EWCOP 39](#)
 - [A Local Authority v X \[2023\] EWCOP 64](#)
- The checklist for a hospital to follow when seeking a possession order is set out at paragraph 30 of this judgment: [Northampton General Hospital NHS Trust v Mercer \[2024\] EWHC 2515 \(KB\)](#)
- Browne Jacobson's guide to the coroner's inquest process can be found [here](#).
- Browne Jacobson's guide to Inquests and Article 2 of the European Convention on Human Rights can also be found [here](#).



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