**Possible Legal Interventions**

The essence of all the key legislation in the United Kingdom recognises and protects the rights and freedom of individuals to choose how they live their lives. Some legislation enables practitioners and organisations to limit or restrict this freedom and choice in certain circumstances such as where the individual’s safety or the safety of others need protection or a law is broken. When limitation or restriction takes place, the response must be balanced and proportionate to the risk(s) to the individual and public safety and the law.  All professionals must adhere to the Humans Rights Act (1998). Article 2 Right to life and Article 8 Right to respect for private and family life are particularly relevant to people who self-neglect.

In the case of self-neglect, legal interventions can reduce the imminence of risk of serious harm to the individual or others. However, they can also often be limited in their application or impact on the adult and only offer a short-term solution to temporarily disrupt behaviour or reduce risk. Legal interventions and coercive measures alone will not reduce the risk of self-neglect in the longer term; and may not stop behaviours leading to self-neglect (such as hoarding) in the longer term; and in some situations, can make it worse.

Research indicates a strong preference to seek voluntary solutions over enforcement, where possible, through engagement with and respectful persuasion of the individual. Additionally, it is desirable for any “legal interventions to take place through a coordinated sequence of actions between agencies so that support [can] be provided even while enforced intervention [takes] place” (Braye et al: 2015).

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| **Agency** | **Legal Power and Action** | **Circumstances requiring intervention** |
| **Local Authority Services** | **Powers of Entry/Warrant s.287 Public Health Act 1936**  Power to gain entry for examination or to execute necessary works under PHA. Police attendance required for forced entry. | **Non-engagement of person**. Applies to both Freehold and Leasehold property. Entry for examination / execution of necessary works. |
| **Power of Entry/Warrant s. 239/240 Public Health Act 1939.**  Environmental Health Officer to apply to Magistrate. Good reason to force entry will be required (all party evidence gathered) Police attendance required. | **Non-engagement of person/entry previously denied.** To survey and examine (All tenure including Leaseholders/ Freeholders) |
| **Enforcement Notice s.83/s84 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 reasonably incurred. | **Cleansing of Filthy or Verminous Premises/ Articles** Filthy or unwholesome condition of premises (articles requiring cleansing or destruction) Prevention of injury or danger to person served. Applies to Freehold/Leasehold property – occupied or unoccupied. |
| **Abatement Notice s.80 Environmental Protection Act 1990. Dealing with a Statutory Nuisance** | **Powers to deal with any premises in such a state as to be prejudicial to health or a nuisance.** |
| **Enforcement Notice s.4 Prevention of Damage by Pests Act 1949.** Power to require action to prevent or treat rats and mice | Powers to require action such as the removal of materials providing food or harbourage to pests where there is evidence of rats or mice (only on ‘land’ not ‘premises’ so not for internal infestations inside a property).  Notice may be served, giving a reasonable time to carry out works to treat for rats/mice, remove materials that may feed or harbour them and carry out structural works. LA may carry out works in default and recover costs. |
| **Litter Cleaning Notice s.92a Environmental Protection Act 1990.**  This may be more appropriate than those above in some circumstances. | Where land open to air is defaced by refuse which is detrimental to the amenity of the locality. An example would be where hoarding has spilled over into a garden area. |
| **The Housing Act 2004**  Allows the Local Authority to carry out a risk assessment of residential properties and identify and hazards that could cause harm. If there are serious hazards (Category 1) there is a duty on the LA to act. If there are other less serious hazards (Category 2) the LA has the power to act. | Can assess the design, construction and maintenance of dwellings but expressly excludes deficiencies solely attributable to the behaviour of the occupant.  Private rented and owner-occupied properties can be assessed by different services within the local authority; if you call FPOC (0345 678 9044) they will direct you to the appropriate team. |
| **Building Act 1984 s.76 Defective Premises.**  It provides an expedited procedure. LA may undertake works after 9 days and recover expenses, unless the owner/occupier states intention to undertake works within 7 days. | Powers to deal with premises which are in such a state as to be prejudicial to health or a nuisance.  Private rented and owner-occupied properties can be assessed by different services within the local authority; if you call FPOC (0345 678 9044) they will direct you to the appropriate team. |
| **Town and Country Planning Act 1971 s.215 Power to require proper maintenance of land**  Minimum 28-day notice to remedy condition of land as specified | Powers to issue owner and/or occupier to deal with condition of land that is adversely affecting amenities for which it is part of or adjoining to. |
| **Building Act 1984 s.77 Dangerous Structures** | Where danger arises from the condition of the building or structure the Council can make an order requiring the owner:   1. to execute such work as may be necessary to obviate the danger or,   (ii) demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition  Etc. |
| **Local Authority**  **West Mercia Police**  **Housing Providers** | **Anti-Social Behaviour, Crime and Policing Act 2014 Warning Letter and Community Protection Notice (CPN)** requiring an individual to do specific things, stop doing specific things or take reasonable steps to achieve a specified result.  A warning letter must be served before the Community Protection Notice is served. | Powers to tackle ongoing Anti-Social Behaviour and stop conduct which unacceptably affects victims and the community.  Behaviour needs to be detrimental to the quality of life of those in the locality, persistent or continuing and be unreasonable.  Served upon a person 16 years or older |
| **West Mercia 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 real danger or a crime being committed. | Information that someone was inside the premises was ill or injured and the Police would need to gain entry to save life or limb |
| **Shropshire Fire and Rescue** | **Powers of Entry Part 6 Section 44 The Fire and Rescue Services Act 2004**  An employee of a fire and rescue authority who is authorised in writing by the authority for the purposes of this section may do anything they reasonably believe to be necessary. | This for the purpose of:   * extinguishing or preventing the fire or protecting life or property; * rescuing people or protecting them from serious harm in a road traffic accident; * reacting in an emergency of another kind relating to the function of the fire and rescue authority;   preventing or limiting damage to property resulting from action taken. |
| **Animal Welfare** | **Animal Welfare Act 2006**  **Offences (Improvement notice)**  Education for owner a preferred initial step. Improvement notice issued and monitored. If not complied can lead to a fine or imprisonment | Cases of Animal mistreatment/ neglect.  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. |
| **West Mercia Police**  **And**  **Approved Mental Health Professionals** | **Mental Health Act 1983**  **Section 135(1)**  Provides for a police officer to enter a private premise, 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 Professional (AMHP) and a doctor.  NB. Place of Safety is usually the mental health unit but can be the Emergency Department of a general hospital, or anywhere willing to act as such. | 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  • Ill-treated, or  • Neglected, or  • Being kept other than under proper control, or  • If living alone is unable to care for self, and that the action is a proportionate response to the risks involved. |
| **All** | **Mental Capacity Act 2005**  A decision can be made about what is in the best interests of a mentally incapacitated person by an appropriate decision-maker under the MCA. It is important to follow the empowering principles of the Act and ensure that any actions taken are the less restrictive option available.  **NB:** Where the decision is that the person needs to be deprived of their liberty in their best interests, a **Deprivation of Liberty Safeguards (DoLS)** authorisation will be required. In circumstances where a person is objecting to being removed from their home, or to any DoLS authorisation, referral to the **Court of Protection** may be needed and legal advice should be sought. | When a person does not have the capacity to make their own decision and any of the above apply. |

**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 2 (right to life), 3 (right not to be subjected to inhumane or degrading treatment, 5 (right to liberty and security) and 8 (right to private and family life) of the ECHR are of importance.

These are not absolute rights, i.e. some 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 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. The High Court has powers to intervene in such cases, although the presumption is always to protect the person’s human rights.

**Mental Health Act (1983)**

For individuals who have a severe and enduring mental illness there are other sections of the Mental Health Act that mental health professionals would able to utilise in specific circumstances to meet the ongoing needs of the person.