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Mental Capacity, Self-Neglect, and Adult Safeguarding Practices: Evidence Synthesis and Agenda for Change

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This study explored what Safeguarding Adults Reviews (SARs) can tell us about how to improve adult safeguarding in England, with a focus on mental capacity and self-neglect. Six Safeguarding Adults Reviews (SARs) published in England in 2020 were analysed. This policy brief presents key findings and recommendations to improve future policy and practice for adult social work.

What is self-neglect?

- Lack of self-care (for example, neglect of personal hygiene, nutrition, hydration and/or health). and/or
- Lack of care of the domestic environment (for example, squalor or hoarding). and/or
- Refusal of services that would mitigate risk to safety and well-being.

Background

The Care Act 2014 included self-neglect for the first time as a category under adult safeguarding. Supporting people who self-neglect is associated with high risk to adults with care or support needs. This study adopted the Research in Practice for Adults (2015) definition of self-neglect (Box 1).

Mental capacity, too, is complicated. The Mental Capacity Act 2005 sets out legal requirements for professionals working with people who may lack the mental capacity to make certain decisions.

The Care Act 2014 requires local authorities to commission a Safeguarding Adults Review (SAR) whenever there is cause for concern about how agencies worked together to safeguard an adult with care or support needs who has experienced serious abuse or neglect. However, active learning from these documents beyond dissemination has been limited.

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Key findings

1. People experiencing self-neglect are more at risk if professionals fail to assess mental capacity.

The Mental Capacity Act 2005 requires agencies to assume a person has capacity unless it is established that they lack it. However, misinterpretation of this principle in the cases covered by the SARs led to mental capacity assessments not being carried out. Assessments were not completed even when professionals observed concerning events, such as service-users disengaging with service provision, making significant unwise decisions, and/or having diagnoses which may have impacted upon their decision-making. Worryingly, mental capacity assessments were often not recorded in writing. Assessments which were recorded often lacked detail and clarity about who carried out the assessment and its outcome. This lack of transparency and accountability could expose social workers and their employers, as well as adults in their care, to unnecessary risk.

2. Safeguarding processes failed to protect people with capacity

In the cases covered by SARs, professionals sometimes used capacity to justify not intervening in cases of probable self-neglect, therefore leaving people at considerable risk. Social care practitioners with excessive workload pressures may be at risk of using capacity as a tool for 'disposing' of cases, whether consciously or unconsciously. Promoting autonomy and supporting protection should not be mutually exclusive but balanced to best serve people experiencing self-neglect.

3. Assessments lacked nuance and scope

3.1 Complex and traumatic life experiences

SAR authors questioned the extent to which people with traumatic life experiences were able to imagine alternatives to their current living situations. Professionals appeared to have given little consideration to long-term impacts of trauma on cognition, interpersonal relationships, and people feeling overwhelmed in moments of crisis, and the possible implications for mental capacity

3.2 Substance misuse

Consideration of the long-term impacts of substance misuse and addiction on decision-making was limited in the cases covered by the SARs. The Mental Capacity Act 2005 does not acknowledge these impacts, with explicit consideration only of the immediate effects of intoxication.

3.3 Executive capacity

Executive capacity is "the planning, initiation, organization, self-awareness, and execution of tasks". In the cases covered in the SARs, assessments lacked a thorough consideration of executive capacity. The Mental Capacity Act 2005 states that a person is unable to make a decision if they are unable to "use or weigh" the relevant information, which could be interpreted as inclusion of consideration of executive capacity. However, assessment of executive capacity could be promoted much more clearly and explicitly in the Act. Existing research on the connections between executive capacity and self-neglect is limited.

3.4 The notion of 'choice'

Application of The Mental Capacity Act 2005 usually assumes that people experiencing self-neglect are making discrete 'decisions' to not carry out self-care activities. However, self-neglect may instead develop through a series of 'non-decisions'. Simplistic notions of capacity and choice may have limited applicability where people are reproducing the only lifestyle they know.

The SARs highlighted that people may be encouraged or discouraged from accepting support because of features of their relationships with professionals. Professionals may empower individuals by informing them of a variety of appropriate options for meeting their self-care needs, or conversely decrease the person's motivation to engage by failing to offer personalised support.

'Choice' is not a culturally or politically neutral notion. Different cultural backgrounds come with different expectations of who makes decisions and how. 'Independence' as the favoured goal, with personal choice assumed to further this, serves a political ideology which centres individual responsibility and seeks to minimise state responsibility. In some cases 'interdependence', which emphasises how people exist and meet goals in relationship with other people and resources, may be a more appropriate goal for the safety and wellbeing of people and communities.

1.5 Professionals' lack of confidence in assessing capacity

Throughout the SARs, professionals were noted to lack confidence in assessing capacity. In a number of cases some professionals incorrectly believed assessment of capacity not to be their responsibility.

Recommendations

Social care practitioners should:

1. Consider an individual's capacity to make self-care decisions throughout self-neglect work.

2. Conduct full mental capacity assessments when in any doubt, avoiding delays.

3. Include assessment of executive capacity in mental capacity assessments.

4. When assessing capacity, consider the impacts of personal history, relationships, and substance misuse.

5. Record mental capacity assessments clearly and consistently.

6. Explore reasons behind service refusal and consider ongoing holistic support for adults with capacity.

7. Protest austerity and its impacts upon relationship-based social work practice.

Social care team managers should:

1. Ensure that staff receive thorough training on mental capacity assessments, including assessment of executive capacity.

2. Make support available for practitioners carrying out mental capacity assessments.

3. Protest austerity, and protect evidence-informed and relationship-based social work practice.

Policy makers should:

1. Consider amending the Mental Capacity Act 2005 to better account for executive capacity.

2. Consider how effectively the decision-specific principle of the Mental Capacity Act 2005 applies to the gradual deterioration characteristic of many self-neglect cases.

3. While maintaining the principle of presumption of capacity, consider how legislation and guidance could more clearly encourage practitioners to complete mental capacity assessments.

4. Consider providing more guidance to practitioners seeking to support people with managing risk, when those people are deemed to have capacity around self-care decisions.

5. Record a clear stance in policy and legislation on whether the impacts of traumatic life experiences and substance misuse can introduce mental capacity problems.

6. Challenge austerity measures to enable longer-term, relationship-based social work.

Those involved in the commissioning and creation of SARs should:

1. Protect the confidentiality of service users, making explicit the steps taken to do so.

2. Seek consent and input from service users and family members, making explicit the steps taken to do so.

3. Be transparent about decisions to commission or not commission SARs where serious harm has occurred.

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Box 2. Some issues with SARs

- Variation in depth and inter-agency engagement
- Lack of transparency about why SARs are commissioned in certain cases and not in others
- Inconsistent approaches to protecting confidentiality and gaining consent from people with experiences of self-neglect and/or their families
- The work of two authors is predominant in both the academic research on self-neglect in England and in the authorship of SARs, implying that the topic would benefit from further attention by a greater range of researchers offering their perspectives

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Further information

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