

Learning from Safeguarding Adults Reviews: Self-Neglect and Mental Capacity

“Respectful challenge” is required and “proportionate risk reduction”

MSP is appropriately describing the options and choices

“Mental Capacity Assessment is crucial”

“Better understanding of Executive Capacity is required”

Professor Suzy Brae
National Police MSP Conference
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2. Ethical dilemmas: a fine balance

- Professional codes of ethics
- MCA 2005
- ECHR articles 8 and 5
- Limitations to state power
- Policy context: MSP

- The state's duty to protect from foreseeable harm
- Human dignity
- ECHR articles 2 and 3
- Risk to others

A more nuanced ethical literacy

Respect for autonomy entails

- Questioning 'lifestyle choice', respectful challenge, care-frontational questions
- Dialogue towards 'positive autonomy': maximise capacity to see options and make care-ful choices

Protection entails

- Close attention to wishes, feelings, beliefs and values
- Proportionate risk reduction

“Respecting lifestyle choice isn't the problem; it's where people don't think they're worth anything different, or they don't know what the options are.”

3. Mental capacity: affects perception of risk and intervention focus

Respect autonomy	?
Best interests: preventive	Best interests: remedial

An enhanced understanding mental capacity

- Mental capacity involves
 - The ability to make a decision and to put it into effect
- Impaired executive function (frontal lobe impairment) affects
 - Understanding, retaining, using and weighing relevant information in real-time problem-solving
- 'Articulate and demonstrate' models of assessment
 - GW v A Local Authority [2014] EWCOP20

“This distinction between decisional and executive capacity: assessment should follow an ‘articulate–demonstrate’ model, encouraging the person who is self-neglecting both to outline their approach to decision making, and to reflect and illustrate how they will put their resolutions into effect” (SCIE Report 46. 2011).

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A situated, relational approach to determining the 'right thing to do'

- He has been human, that's the word I can use, he has been human.
- She got it into my head that I am important, that I am on this earth for a reason.
- Intervention delivered through relationship: emotional connection/trust
- "When x came, they were sort of hands on: 'Bump! We've got to do this' ... shall we start cleaning up now?"
- Support that fits with the individual's own perception of need/utility: practical input
- He's down to earth, he doesn't beat around the bush. If he thinks you need to get this sorted, he will tell you.
- The idea is not to get too pushy about it ... if you're too bossy, I will put my feet down and go like a stubborn mule; I will just sit and just fester.
- Respectful and honest engagement; recognition of the individual's journey

Whole system learning

- Broader legal and social context
- Multi-agency governance
- Organisational infrastructure
- Legal and ethical literacy
- Relationship
- The person

Safe and unsafe systems

- Unique and complex pattern of shortcomings
 - Learning rarely confined to 'poor practice'
 - Weaknesses in all layers of the system
 - Each alone would not determine the outcome
 - Taken together they add up to a 'fault line'

SUCCESSIVE LAYERS OF DEFENSES

Learning about frontline practice

- Achieving a holistic view
- Risk appraisal
- Making connections: shared ownership
- Making safeguarding personal
- Find the person
- Learning about practice

In the SAR Review of the Reviews: "Each episode of risk is seen in isolation, and therefore the accumulation of risk is being lost".