

Norfolk Safeguarding Adults Board

Guidance for professionals when a person is not following the guidelines on social distancing or self-isolating (Covid-19)

FINAL

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Introduction

The following guidance should be read in conjunction with the attached flow diagram and applies when someone with care and support needs who continues to go into the community and fails to respond to the [government's guidance](#) about social distancing or self-isolating due to Covid-19 restrictions.

This may be because they do not understand what they should do due to confusion, a mental health condition or learning difficulty. Please refer to the [Mental Capacity Act guidance note COVID19](#), produced by 39 Essex Chambers and note that the duties and responsibilities under the Mental Capacity Act are unchanged by the Coronavirus Act.

If the person appears to be suffering from a mental disorder, is presenting as a serious risk to themselves or others, and may require admission to hospital for assessment or treatment for a mental disorder, consideration could be given to referring for a **Mental Health Act** assessment, but in most cases, usual processes around the **Mental Capacity Act** should be applied before other action is considered.

Discuss with family and/or advocate (referring for an advocate if necessary) and attempt to resolve the issues informally first. If this is not possible:

Process for assessment of a person with care and support needs who is not observing social distancing or self-isolation

- 1) **Assess the person's mental capacity** as best you can, using appropriate social distancing and PPE ([NCC Coronavirus Guidance](#) or check your own organisation's guidance) to establish if they have capacity to make a decision about whether to go out into the community. This will need to include whether the person understands the government's guidance on social distancing and self-isolating, and the consequences of not following these, i.e. potential police action, the risks to themselves and others (for NCC see [MCA Guidance](#)).
- 2) **Convene a multi-agency meeting** to discuss the case, involving professionals who are involved with the person. This could include their GP, District Nurse, Social Worker, care provider, housing provider. If existing information suggests the health risks are already high, invite Public Health and the police – Public Health are setting up a case conference process for the most concerning cases where there is a significant public health risk.

During the multi-agency meeting or public health conference, consider the following:

- Is the person showing the symptoms of coronavirus?

- Does the person have mental capacity to understand the social distancing and/or self-isolation guidance? Consider is this a permanent impairment? Do they have fluctuating capacity? Is there potential to change with simple messages e.g. someone with a learning disability.
- What are the risks to the person from their current behaviour? E.g. how frequently are they going out, where are they going, can they explain their purpose in going out? High risk / low frequency or low risk / high frequency behaviours; adverse reaction from other members of the public; police intervention
- What are the risks to other people from the person's behaviour? E.g. who are they coming in contact with, or likely to come into contact with? Tactile / chatty person or someone who tends to keep quite private anyway? Risks associated with general safety when out, not just coronavirus
- What strengths are there in the person's network or environment which could support them? E.g. family who could help them to self-isolate or accompany them into the community, care provision that could support them to remain at home or accompany them into the community, any interests they could be encouraged to pursue at home.
- What mitigating actions could be taken to reduce the risks using the strengths identified above or other options? Additional support to understand what is happening / key messages, assistive technology, volunteers, support of local community, police checks, additional home support/one to one support, respite care in a residential care provider setting.

Subsequent actions will depend on the outcome of the case conference and risk assessment.

- 3) If the person **has** capacity to understand the risks to themselves and/or others, they continue to refuse to follow the National Guidance and the **risks to others are high** (e.g. showing symptoms and interacting closely with other people, spitting at others or other behaviours that increase risk, advise the Public Health Officer and the police, for them to consider invoking their powers under the Coronavirus Act 2020:

[Coronavirus Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

If the person has capacity to understand the risks to themselves and/or others, and the **risks to others are low**, offer support to help the person to stay safe. E.g. If they would agree to cover their lower face / keep hands very clean before and after going out? Would they need monitoring in case the level of risk changed?

If the person **lacks** capacity to understand the risks to themselves or others, clearly identify what the risks are and if these are high or low. Best interests decisions will need to be made around any possible measures, in order to minimise or even remove the risk to themselves / others.

The measures required to ensure someone who lacks capacity self isolates / social distances / limits their contact with others will vary depending on the individual, and in accordance with the Mental Capacity Act must be the **least restrictive** measures to keep them safe.

Occasionally, the measures that will need to be taken to protect the person or others could be extremely restrictive, for example the use of medication where none was used before, increased dosages in existing medication, actual restraint, locking someone in their room/house, moving the person temporarily to a residential care setting, and in these circumstances an application for a **Deprivation of Liberty Safeguard (DoLS)** should be made if the person is in a care home or hospital.

If the person is at home, an application would need to be made to the Court of Protection for a **Deprivation of Liberty Order**. If you think this may be applicable, consult with NPLaw; the Court of Protection helpline can also be contacted on: 020 7421 8824 or out of hours 020 7947 6000.

Any changes to a person's care plan **MUST** be made on the basis of a **Best Interests** assessment, and the reasons for the decision carefully explained.

- 4) Case Worker to agree with partners how frequently the care plan needs to be reviewed, and to reconvene a case conference to review progress as necessary.
- 5) If the risks to the person or others cannot be managed via a best interests decision, advise the Public Health Officer and the police, for their consideration of invoking their powers under the Coronavirus Act 2020 (same link as above):

[Coronavirus Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Additional:

The following document is published by the Department of Health and Social Care:

[The Mental Capacity Act \(2005\) \(MCA\) and deprivation of liberty safeguards \(DoLS\) during the coronavirus \(COVID-19\) pandemic: additional guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/the-mental-capacity-act-2005-mca-and-deprivation-of-liberty-safeguards-dols-during-the-coronavirus-covid-19-pandemic-additional-guidance)

If it is suspected or confirmed that a person who lacks the relevant mental capacity has become infected with COVID-19, it may be necessary to restrict their movements. In the first instance, those caring for the person should explore the use of the MCA as far as possible if they suspect a person has contracted COVID-19. The following principles provide a guide for which legislation is likely to be most appropriate:

- (a) The person's past and present wishes and feelings, and the views of family and those involved in the person's care should always be considered.
- (b) If the measures are in the person's best interests then a best interest decision should be made under the MCA.
- (c) If the person has a DoLS authorisation in place, then the authorisation may provide the legal basis for any restrictive arrangements in place around the measures taken. Testing and treatment should then be delivered following a best interest decision.
- (d) If the reasons for the isolation are purely to prevent harm to others or the maintenance of public health, then Public Health Officer powers should be used.
- (e) If the person's relevant capacity fluctuates, the public health officer powers may be more appropriate.

If the public health powers are more appropriate, then decision makers should contact their local health protection teams.

Contact details for referring to the public health officers are at this link (East of England):

[gov.uk/guidance/contacts-phe-health-protection-teams#east-of-england-hpt](https://www.gov.uk/guidance/contacts-phe-health-protection-teams#east-of-england-hpt)

END

20 APRIL 2020

Process for ASSD staff / professionals when a person is not following guidance on social distancing or self-isolating

To use in situations where standard discussions with the person (and/or family/carers) have already taken place and the person (who has, or appears to have, care and support needs) continues to present an apparent risk

