Using human rights as a practitioner

Responding to a (potential) crisis in the community

This flowchart is for practitioners deciding whether to raise a serious concern about someone's safety as a safeguarding issue.

Which of my Human Rights Act duties are triggered?

Duty to protect the person from inhuman and degrading treatment

Duty to respect person's right to private life: autonomy

Step 1 — Is there evidence that the person is at real and immediate risk of serious harm?

Protecting from inhuman or degrading treatment

YES

NO

Take immediate action. If the person is at risk of serious harm, take reasonable steps to protect from inhuman/degrading treatment.

Step 2 — Will the steps you take to safeguard the person at risk interfere with their right to autonomy?

Respecting autonomy

YES

NO

Exit the flowchart

Step 3 — Will your interference with the person's autonomy be lawful?

Respecting autonomy

YES

To justify interference with someone's autonomy, you will need to follow this 3 stage test:

1. **Lawful?:** The Mental Capacity Act will permit a best interests decision if the situation is urgent and there is a genuine concern that the person lacks capacity to make a decision about accepting intervention. If there is no immediate risk to life or of inhuman/degrading treatment, you should carry out a mental capacity assessment.

2. **Legitimate reason?:** Are you trying to protect the person from risk of serious harm?

3. **Proportionate?:** Have you considered all other possible options and is this the most proportionate to the level of risk? Have you taken all practicable steps to support the person to make a decision themselves?

YES TO ALL

NO TO ANY

Work with the person and consult their family/carer if appropriate to safeguard the person at risk

Reconsider your decision and other ways to support the person

This flowchart is taken from BIHR's toolkit 'Dementia and Human Rights: A practitioner's guide'

The toolkit gives more information on these rights, your duties as a practitioner and covers other key issues for dementia and human rights.

Other toolkits in this series include flowcharts key issues for social care, young people and rehab. Get your free copy of the toolkits or posters at:

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Shining a light on human rights

Dementia and Human Rights:
A practitioner's guide