



Department  
of Health &  
Social Care

Minister of State for Care

39 Victoria Street  
London  
SW1H 0EU

Our ref: [REDACTED]

HM Coroner Crispin Oliver  
Senior Assistant Coroner for County Durham and Darlington  
H.M. Coroners Office  
P.O. Box 274  
Stanley  
County Durham  
DH8 1HG

By email: [REDACTED]

29 May 2025

Dear Mr Oliver,

Thank you for the Regulation 28 report of 3<sup>rd</sup> April 2025, sent to the Department of Health and Social Care, about the death of Ms Loraine Michelle Cheesman. I am replying as the Minister with responsibility for adult social care.

Firstly, I would like to say how saddened I was to read of the circumstances of Ms Cheesman's death. I offer my sincere condolences to her family and loved ones. The circumstances your report describes are concerning and I am grateful to you for bringing these matters to my attention.

Your report quoted from the Care and Support Statutory (CASS) Guidance in relation to Self Neglect and Hoarding Disorder. You noted professionals' difficulty parsing the guidance's phrase "there may come a point", referring to the point when an adult's self-neglect means they are no longer able to protect themselves by controlling their own behaviour.

In response, you recommended that DHSC provide guidance on:

- a) how to incorporate consideration of Executive Dysfunction into the assessment of mental capacity; and
- b) how professionals should ascertain when the 'trigger point' for intervention is reached in cases where hoarding disorder and/or executive dysfunction play a role.

While you may already be familiar with the following points, I would like to set them out clearly here as this is a particularly complex area:

- Lack of mental capacity is not the same as executive dysfunction – a person may have mental capacity even if they lack 'executive capacity'.

- Executive functioning problems can, however, lead to mental incapacity – particularly an inability to use and weigh up the relevant information.
- Inability to protect oneself – for section 42 Care Act purposes – is not the same as lacking capacity to make a relevant decision. It is potentially wider.
- The courts have emphasised that, when assessing capacity in such cases, it is vital to refer to evidence beyond the interview – including having a ‘performative’ aspect to the capacity assessment.

I appreciate that professionals would welcome further guidance on this complex topic – they may wish to consult the 2018 NICE guidance on decision-making and mental capacity: [Decision-making and mental capacity](#). This contains information on executive dysfunction.

It should be noted that professionals are expected to keep up to date with caselaw as well as guidance. They may wish to explore recent judgments from the Court of Protection which have addressed executive functioning, and how capacity should be assessed in such cases. The following cases are relevant:

- [Calderdale Metropolitan Borough Council v LS & Anor \[2025\] EWCOP 10 \(T3\) \(13 March 2025\)](#)
- [A Local Authority v AW \[2020\] EWCOP 24 \(20 May 2020\)](#)
- [A Local Authority v ZX \[2024\] EWCOP 30 \(T2\) \(06 June 2024\)](#)

The Department will continue to disseminate such guidance and caselaw through its partners and networks.

I hope this response is helpful. Thank you for bringing your concern to my attention.

Yours sincerely,

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