

Learning Outcome

1. Understand the current framework for care within the UK

1.1 Explain the current legislation, guidance and Code of Practice which govern care within the UK.

1.2 Evaluate the impact that the current national framework has upon service users

History of Health and Social Care Legislation: Transcript

We've seen already that legislation such as the Care Act of 2014 and the Equality Act of 2010 has a huge impact on the working practices and user-experiences of everyone involved in health and social care. These two acts both consolidate hundreds of other laws into one act. These are just some of the latest examples of reform of care legislation. In this short video, we'll have a look at a timeline of previous reforms in health and social care, and see how changes in the past have led us to where we are today.

The 19th Century and workhouses

Let's begin in 1834 with the New Poor Law. Poor laws had already been around for centuries as a way to provide relief from poverty for the neediest people in society, but the government at the time was concerned at the rising costs of this. The New Poor Law said that the only way that poor people could receive support was to enter a *workhouse*, which was like a factory where workers received food and lodging, and basic schooling for children. However, conditions in the workhouses were so harsh that that were often compared to prisons, and many people saw this as a deliberate deterrent to people entering them, therefore keeping the cost to the state down. Similarly, Poor Law hospitals were opened, or at the very least, workhouses had attached infirmaries. However, the standard of medical care was extremely low, and there were very few trained doctors and nurses available to help.

Things improved in 1867 when, following stern criticism of conditions in workhouses, The Metropolitan Poor Act helped to set up asylums for the sick and needy in London. These were, in effect, the first state hospitals in England.

A shift in approach at the beginning of the 20th Century

At the beginning of the 20th Century, change was in the air. In 1905, the Royal Commission on the Poor Law and the Unemployed was set up to review the system and to recommend changes. The findings of the review were split, with most commission members preferring to keep some form of the Poor Law, and sticking to the belief that being poor or unemployed was the result of weak moral character. They advocated for workhouses being replaced by institutions catering for specific groups such as children, the elderly or 'the mentally ill'. One reason for this was to further deter able-bodied people from seeking relief in the workhouses, as now families would have to be split up. This part of the commission recommended that the Poor Law should be renamed as "public assistance"

On the other hand, there was a breakaway group of some members of the commission who wanted to abolish the Poor Law and the Workhouses, and assign different aspects of care and social support to different institutions. They wanted to focus on the prevention of poverty, rather than providing relief. Some historians argue that this effectively paved the way for what later became the Welfare State and the NHS.

As the 20th Century progressed, there were further changes. The Children's Act in 1908 helped to keep children out of the workhouses, amongst other changes, and had the long-term effect of many



local councils establishing social services. Additionally, the old-age pension was introduced in 1909. Workhouses were abolished following new legislation reform in 1929, although many were redesignated and continued under the name of Public Assistance Institutions.

The beginning of the NHS after WWII

It was after the Second World War that we saw the most significant shift in public health and social care. A new Labour government came to power in 1945 and Health Secretary Aneurin Bevan proposed a scheme to bring together hospitals, doctors, nurses, pharmacists, opticians and dentists under the umbrella of one organisation. From this, the National Health Service was born in 1948, making healthcare freely available to everyone, and funded by public money. At the same time, the National Assistance Act formally replaced the Poor Law. This created a safety-net for people who could not pay into national insurance, such as elderly or disabled people. One of the changes heralded by this act was that all care homes had to be registered, meaning they were subject to inspection by the Ministry of Health.

The 1970s

The next major piece of legislation was the Chronically Sick and Disabled Person Act of 1970. This required local authorities to provide welfare services to disabled people, whereas previous rulings had simply enabled authorities to do so. It built on groupings set out in the 1948 act of people who were eligible for support, including those who are blind, deaf, disabled, or who have learning disabilities or mental illnesses. This act promoted practical assistance such as adapting people's homes or facilitating access to public services and leisure activities.

The 1990s

In 1990, the government introduced The NHS and Community Care Act. Many of the rulings affected finance, and how different NHS trusts managed their budgets, but it also had significant implications for how social care was delivered. One major example of this was that local authorities were obliged to carry out a needs assessment of older people and people with disabilities for community care services, and more funding was made available for places in both residential or domiciliary care services. Furthermore, local authority social care services were allocated responsibility for the elderly in the community with the development of home care, day care and respite care to assist people in remaining in their own homes.

The 2000s

The new century ushered in some major changes in legislation affecting different areas of care provision.

In 2000, the Care Standards Act was introduced. This was significant because it established new minimum standards of quality across residential and domiciliary care, as well as in nursing homes. To support and implement this, the act brought about the establishment of the Commission for Social Care Inspection, which inspected, regulated and reviewed all social care establishments that were not directly run by the NHS.

Shortly afterwards, in 2005 the Mental Capacity Act was launched. One of the key principles here is the presumption of capacity, whereby every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This principle can still be seen in the person-centred approaches promoted by the Care Act of 2014 and other aspects of modern care. This and other key principles provided a framework for carers to support service users by facilitating their own decision making as much as possible.



One amendment to the Mental Capacity Act was the addition of Deprivation of Liberty Safeguards. In 2019, these were amended to the Liberty Protection Safeguards. These safeguards are designed to protect those people who, due to their mental capacity, cannot give consent to their care arrangements. There are a series of measures and assessments to ensure that all actions are carried out in a person's best interests.

In 2007, the government published the Mental Health Act, which amended an existing act first published in 1983. Some of the major changes here include how mental disorders are defined. Disorders and disabilities of the brain are not automatically classified as mental disorders, neither are learning disabilities. This also introduced new requirements for hospitals and local authorities regarding after-care for patients with limited mental capacity, and for provisions for patients under the age of 18.

The 2010s

In the last decade, two pieces of legislation which have a huge impact on learning and practices within health and social care were passed into law.

2010 saw the introduction of a major piece of legislation, the Equality Act. There is a separate video that looks at this in slightly more detail. The Equality Act brings together, and simplifies, 116 previous pieces of legislation. The act reviewed and combined existing protected traits into the defined protected characteristics: age, race, sex, gender reassignment, pregnancy and maternity, religion or belief, marriage and civil partnership, disability, sexual orientation.

The Equality Act provides a legal framework to protect the rights of individuals. It provides Britain with a discrimination law which outlaws any unfair treatment on the basis of these protected characteristics and promotes a fairer and more equal society.

Finally, we have the Care Act of 2014. Again, there is a separate video on this course to look at this in more detail, as it's important that you understand this as best you can.

The act outlines procedures for individual care assessments and an assessment of the needs of carers, and not just those receiving care – it introduced carers rights and provided support packages for carers.

Funding for care provision was introduced and a cap was put on how much an individual would be expected to pay towards their own care.

It makes clear that local authorities must provide or arrange services that help *prevent* people developing the need for care and support or delay people deteriorating in such a way that they would need ongoing care and support.

The Care Act is built around 6 key principles

- Empowerment
- Protection
- Prevention
- Proportionality
- Partnership
- Accountability

Again, please see the separate video on this course for a more detailed discussion about these principles.

Conclusion

So what can we learn from this brief history lesson, and how does it help us to prepare for working in health and social care in the 21st Century? We can see that practices in care have for a long time been backed up by legal rights and responsibilities, and this will continue to be the case. What is expected of you as a health and social care worker is often enshrined in law, and so are the rights and responsibilities of all people involved in care provision. Furthermore, it's worth noting how laws are written or updated as a reflection of how society develops. As a practitioner, it will be important for you to keep up-to-date with current legislation, but also for you to appreciate the lessons we all learn from looking at the past.

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