



KEY UK POLICY AND LEGISLATION:  
**ADULT PROTECTION AND  
SOCIAL CARE 2019**

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## ENGLAND

### Adult Protection and Safeguarding

*Care Act 2014*

### Adult Social and Community Care

*Care Act 2014*

### Adults with Incapacity

*Mental Capacity (Amendment) Act 2019*

### Care Act 2014

*Integration of Health and Social Care*

*Care Act 2014*

### Regulatory Bodies

*Care Quality Commission*

*Social Work England*

## WALES

### Adult Protection and Safeguarding

*Social Services and Well-being (Wales) Act 2014*

### Adult Social and Community Care

*Social Services and Well-being (Wales) Act 2014*

### Adults with Incapacity

*Social Services and Well-being (Wales) Act 2014*

### Integration of Health and Social Care

*Social Services and Well-being (Wales) Act 2014*

### Regulatory Bodies

*Social Care Wales*

*Regulation and Inspection of Social Care (Wales) Act 2016*

## SCOTLAND

### Adult Protection and Safeguarding

*Adult Support and Protection Act*

*Protection from Abuse (Scotland) Act 2001*

*Protection of Vulnerable Groups (Scotland) Act 2007*

### Adult Social and Community Care

*Social Care (Self Directed Support) (Scotland) Act 2013*

*Community Care and Health (Scotland) Act 2002*

### Adults with Incapacity

*Adults with Incapacity (Scotland) Act -2000*

### Integration of Health and Social Care

*Public Bodies (Joint Working) (Scotland) Act 2014*

### Regulatory Bodies

*Healthcare Improvement Scotland Care Inspectorate*

## NORTHERN IRELAND

### Adult Protection and Safeguarding

*Adult Safeguarding: Prevention and Protection in Partnership (2015) Report*

### Adult Social and Community Care

*Health and Personal Social Services Act (Northern Ireland) 2001*

*Health and Wellbeing 2026: Delivering Together Report – Yet to be implemented*

### Adults with Incapacity

*Mental Capacity Act (Northern Ireland) 2016 – Yet to be implemented*

### Integration of Health and Social Care

*Not a legislative issue in NI.*

### Regulatory Bodies

*The Regulation and Quality Improvement Authority. Northern Ireland Social Care Council .*



# CARE ACT 2014 – ENGLAND



## Care Act 2014

**The Care Act outlines safeguarding responsibilities that local authorities must fulfil and abide by.**

**Lead a multi-agency local adult safeguarding system** that seeks to prevent abuse and neglect and stop it quickly when it happens.

**Make enquiries, or request others to make them,** when they think an adult with care and support needs may be at risk of abuse or neglect and they need to find out what action may be needed.

**Provide comprehensive information and advice about care and support services** in their local area.  
**Establish Safeguarding Adults Boards,** including the local authority, NHS and police, which will develop, share and implement a joint safeguarding strategy.

**Carry out Safeguarding Adults Reviews** when someone with care and support needs dies as a result of neglect or abuse and there is a concern that the local authority or its partners could have done more to protect them.

**Arrange for an independent advocate** to represent and support a person who is the subject of a safeguarding enquiry or review, if required.

**According to the act, a person will be entitled to have their needs met if,**

The adult has 'eligible' needs.

The adult is 'ordinarily resident' in the local area (which means their established home is there).

Any of 5 situations apply to them.

**The 5 situations are,**

The type of care and support they need is provided free of charge.

The person cannot afford to pay the full cost of their care and support.

The person asks the local authority to meet their needs.

The person does not have mental capacity, and has no one else to arrange care for them.

When the cap on care costs comes into force, their total care and support costs have exceeded the cap.

**The assessment must be carried out by an appropriately trained assessor, for instance a social worker, who will consider a number of factors, such as:**

The person's needs and how they impact on their wellbeing – for instance, a need for help with getting dressed or support to get to work.

The outcomes that matter to the person – for example, whether they are lonely and want to make new friends.

The person's other circumstances - for example, whether they live alone or whether someone supports them.

# MENTAL CAPACITY (AMENDMENT) ACT 2019 – ENGLAND.



## Mental Capacity (Amendment) Act 2019

### **Mental Capacity (Amendment) Act 2019 – England.**

The Mental Capacity (Amendment) Act provides an update to 2005s Mental Capacity Act, legislation designed to protect and empower those people who may lack the mental capacity to make decisions for themselves.

The Act introduces Liberty Protection Safeguards (LPS) a new safeguarding model which replaces Deprivation of Liberty Safeguards (DoLS), LPS are designed to be more streamlined than DoLS in order to provide quicker help to those who need it – key features of the LPS include,

**Deprivations of liberty have to be authorised in advance by the responsible body** – for NHS hospitals – the hospital manager, in all other cases – care homes, private

hospitals etc – the responsible body is the local authority,

### **Mental Capacity (Amendment) Act 2019 – England. (Con't)**

**For any deprivation of liberty to be authorised, it must be clear that** – the person has a mental disorder, the person lacks the capacity to consent to the care arrangements, the arrangements are necessary to prevent harm to the cared-for person, and proportionate to the likelihood and seriousness of that harm.

**The responsible body must** – consult with the cared for person and others, to understand what the persons wishes and feelings are about the arrangement

**Where it is clear, or reasonably suspected, that the person objects to the care arrangements,** - then a more thorough review of the case must be carried out by an Approved Mental Capacity Professional.

**For deprivations of liberty in care homes** – If the local authority feel it is appropriate, care home managers lead on the assessments of capacity, and the judgment of necessity and proportionality, and pass their findings to the local authority as the responsible body.

**Deprivation safeguards include** – regular reviews by the responsible body and the right to an appropriate person or an IMCA to represent a person and protect their interests. The court of protection will oversee any appeals or disputes.

The Act has been a subject of criticism for the use of care home managers in the authorisation process, questioning whether this will lead to conflict of interests and lack of scrutiny,

The Act has also come into comment for ignoring recommendations from the Law Commission review of the MCA, and for being drafted without sight of the Independent Review of the Mental Health Act.

## SOCIAL SERVICES AND WELL-BEING ACT 2014 – WALES



**The Social Services and Well-Being (Wales) Act 2014 aims to create a national approach to the way that local authorities promote wellbeing and protect people from abuse and neglect.**

Much like the Care Act 2014, the Social Services and Well-Being (Wales) Act 2014 outlines the safeguarding responsibilities that local authorities have for adults in need, local authorities are required to investigate where they suspect that an adult with care and support needs is at risk of abuse or neglect.

Section 126(1) of the Act defines an adult at risk. An “adult at risk”, for the purposes of this Part, is an adult who:-

- (a) is experiencing or is at risk of abuse or neglect;
- (b) has needs for care and

support (whether or not the authority is meeting any of those needs); and  
(c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.”

Adult protection and support orders are introduced to authorise entry to premises for the purpose of enabling an authorised officer to assess whether an adult is at risk of abuse or neglect and, if so, what, if any, action should be taken.

Relevant partners are placed under a duty to report to the appropriate local authority where they suspect that people (adult or children) may be at risk of abuse or neglect.

## ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 – SCOTLAND



### Adults with Incapacity (Scotland) Act 2000

**The Adults with Incapacity (Scotland) Act 2000 introduced a system for safeguarding the welfare and managing the finances of adults who lack capacity due to mental illness, dementia, or an ability to communicate.**

It covers rules surrounding powers of attorney, access to fund schemes, Guardianship

orders, and intervention orders.

The Act also established the Office of the Public Guardian as well as provided a framework for the office, the Mental Welfare Commission, local authorities and the courts to work in conjunction with each other.

## SELF-DIRECTED SUPPORT (SCOTLAND) ACT 2013 – SCOTLAND



### Self-directed Support (Scotland) Act 2013

**The Self-directed Support (Scotland) Act 2013 outlines how Scottish local authorities must provide four different options including direct payments for those who are eligible for social care to choose how it is delivered, allowing people to decide how much control and responsibility they want over their social care support arrangements.**

The Act also outlines the duty for local authorities to provide correct and useful information and support for those eligible for social care needs, and also delivers powers for local authorities to support unpaid carers.

## PROTECTION FROM ABUSE (SCOTLAND) ACT 2001 – SCOTLAND



### Protection from Abuse (Scotland) Act 2001

**The Protection from Abuse (Scotland) Act 2001, was introduced to afford greater protection to individuals who have left abusive relationships or suffered from domestic abuse by allowing a power of arrest to be attached to an interdict.**

The act also introduced civil protection orders and non-harassment orders, providing protection after the relationship had ended for those who had suffered from an abusive partner.

## PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007 – SCOTLAND



### Protection of Vulnerable Groups (Scotland) Act 2007

**The Protection of Vulnerable Groups (Scotland) Act 2007 brings the protection of vulnerable adults and children under a PVG scheme, whereby individuals whose behaviour**

**makes them unsuitable to work with vulnerable/protected adults or children cannot do “regulated work” with these groups.**

## ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007 – SCOTLAND



### Adult Support and Protection (Scotland) Act 2007

**The Adult Support and Protection Act 2007 introduces new measures to identify and protect individuals who fall into the category of adults at risk. These measures include**

“Placing a duty on councils to make the necessary inquiries and investigations to establish whether or not further action is required to stop or prevent harm occurring;

A requirement for specified public bodies to co-operate with local councils and each other about adult protection investigations;

A range of protection orders including assessment orders, removal orders and banning orders; and

The establishment of multi-disciplinary Adult Protection Committees.”

As well as this, the ASPSA seeks to strengthen cooperation and aid/information sharing between agencies that deal with adult protection.

## COMMUNITY CARE AND HEALTH (SCOTLAND) ACT 2002 – SCOTLAND



### Community Care and Health (Scotland) Act 2002

**The Community Care and Health (Scotland) Act 2002 introduced free personal care for adults over 65 regardless of income or in what accommodation they live.**

The act also created rights for unpaid and informal carers, including the right to a separate “carers assessment,” This act was amended in 2018, to provide free personal care to people under the age of 65 regardless of their condition.

## PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SCOTLAND



### Public Bodies (Joint Working) (Scotland) Act 2014

**The Public Bodies Care and Health (Scotland) Act 2014 provides a framework for the integration of health and social care services, it creates integration authorities and schemes**

**which now have responsibility for local social care and health funding previously managed by NHS boards and local authorities.**

## ADULTS WITH INCAPACITY (NORTHERN IRELAND) ACT 2016 – NORTHERN IRELAND



### Adults with Incapacity (Northern Ireland) Act 2016

**The Adults with Incapacity (Northern Ireland) Act 2016 is an example of fusion model legislation as it combines mental health and mental capacity for over 16s in one piece of law. Its lays down two statutory tests that must be satisfied, one diagnostic and one functional, in order to reach a decision on the mental capacity of a person.**

The legislation puts into statute the common-law definition of necessity, and

provides a power of attorney centred around registration with the OPG. It also provides persons who lack capacity with new safeguards that increase with the seriousness of the intervention being proposed, and includes the use of trust panels and independent mental capacity advocates depending on the context of the case. Unfortunately, due to the deadlock and suspension of Stormont, this legislation is yet to be implemented.

## ADULT SAFEGUARDING: PREVENTION AND PROTECTION IN PARTNERSHIP (2015) REPORT



### Adult Safeguarding: Prevention and Protection in Partnership

**The Adult Safeguarding: Prevention and Protection in Partnership 2015 report outlines adult safeguarding policy for Northern Ireland.**

Developed by the Department of Health, Social Services and Public Safety (DHSSPS) and the Department of Justice

(DOJ) it seeks to reduce the instances of harm and abuse by focusing on preventive and protective adult safeguarding measures and working cross departmentally and cross organisationally.

## HEALTH AND PERSONAL SOCIAL SERVICES ACT (NORTHERN IRELAND) 2001



### Health and Personal Social Services (Northern Ireland) Act 2001

The Health and Personal Social Services (Northern Ireland) Act 2001 created the regulatory body – the Northern Ireland Social Care Council in order to register and to promote high

standards of training and conduct among social care workers.





# KNOWLEDGE BANK



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