

LEGISLATIVE AND POLICY FRAMEWORK

**CARE AND SUPPORT FRAMEWORK FOR
ADULTS WITH A LEARNING DISABILITY
AND/OR AUTISM**

**ACROSS BOURNEMOUTH, CHRISTCHURCH
AND POOLE**

Legislative and Policy Frameworks

1. Health and Social Care

The Care Act (2014) Revised (2016)- came into force on 1 April 2015, replacing a range of previous legislation linked to adult social care. The Act included a new eligibility framework across the country with a focus on prevention and promoting health and wellbeing.

The Children & Families Act (2014) - extends the support that young people receive in relation to an Education Health Care Plan (EHC) from aged 14 to the end of the academic year in which the young person reaches 25 years old. A statutory duty requires school governing bodies to ensure that all registered pupils at the school are provided with independent careers guidance from year 8 (12-13 years old) to year 13 (17-18years old).

The NHS Five Year Forward View (2014) - sets out a new shared vision for the future of the NHS based around the new models of care. It has been developed by the partner organisations that deliver and oversee health and care services including Care Quality Commission, Public Health England and NHS Improvement (previously Monitor and National Trust Development Authority).

Patient groups, clinicians and independent experts have also provided their advice to create a collective view of how the health service needs to change over the next five years.

It recognises that quality of care can be variable, preventable illness is widespread and health inequalities deep-rooted. Patients' needs are changing, new treatment options are emerging and along with challenges in mental health, cancer, as well as support for frail older patients.

A radical upgrade in prevention and public health is needed. When people do need health services, patients will gain far greater control of their own care including the option of shared budgets combining health and social care. Far more care will be delivered locally but with some services in specialist centres organised to support people with multiple health conditions. One new model option will be for health and social care to develop integrated out-of-hospital care. A further new option will be the integrated hospital and primary care provider.

Fulfilling and Rewarding Lives – The Strategy for Adults with Autism in England and Implementation Guidance (2010) and the Think Autism update report (2014) - both launched following the introduction of the Autism Act (2009), which aims to tackle the disadvantages people with autism and their families often face. Four key areas focus on: increasing staff understanding, improving diagnosis and assessment of needs, supporting people with autism at transition and involving people with autism and their families in local decision making.

The NHS Five Year Forward View for Mental Health (2016) – is an independent report of the Mental Health Task Force which sets out the start of a 10 year journey of transformation. Priorities are prevention, access, integration, quality and a positive experience of care. The ambition is to deliver rapid improvements in outcomes by 2020/21 through ensuring that 1 million more people with mental health needs are accessing high quality care. The report identifies the need to invest an additional £1 billion in 2020/21.

The Accessible Information Standard (2016) - aims to provide people who have a disability, impairment or sensory loss with information that they can easily read or understand.

All organisations that provide NHS or adult social care are required to follow the new standard, including NHS Trusts and Foundation Trusts, and GP practices. As part of the accessible information standard, these organisations must do four things:

- Ask people if they have any information or communication needs, and find out how to meet their needs. Record those needs clearly and in a set way.
- Highlight or 'flag' the person's file or notes so it is clear that they have information or communication needs and how those needs should be met.
- Share information about people's information and communication needs with other providers of NHS and adult social care, when they have consent or permission to do so.
- Take steps to ensure that people receive information which they can access and understand, and receive communication support if they need it.

The National Carers Strategy (2008, updated 2010) and Second National Carers Action Plan (2014) – set the framework for supporting carers, with most recent priorities focusing on: Identification and recognition, Realising and releasing potential, A life alongside caring and Supporting carers to stay healthy.

National Framework for NHS Continuing Healthcare and NHS- Funded Nursing Care October 2018 (Revised) and National Framework for Children and Young People's Continuing Care (2016). – provides a framework for access health funding to meet both health and social care needs for adults and children with complex health needs.

Section 117, Mental Health Act (1983) – provides a framework for joint funding aftercare for people with mental health needs discharged from hospital under the Mental Health Act.

2. Safeguarding

The Care Act 2014 S42-46 sets out how local agencies should work together to ensure a coherent policy exists for the protection of vulnerable adults, and replaces the 'No Secrets' guidance. The Act encourages organisations to promote well-being,

prevent abuse and understand what feeling safe means to the individual themselves. Six key principles underpin a personalised approach to safeguarding an individual:

- Empowerment,
- Prevention,
- Proportionality,
- Protection,
- Partnership, and
- Accountability.

The Provider must ensure that their staff in contact with the adult understand their own role and responsibility and have access to practical guidance, advice and support. This will include understanding local inter-agency policies and procedures.

The key focus is on developing a real understanding of what people wish to achieve, agreeing, negotiating and recording their desired outcomes, working out with them (and their representatives or advocates if they lack capacity) how best those outcomes might be realised and then seeing, at the end, the extent to which desired outcomes have been realised. The quality of communication will then be effective in supporting and empowering individuals to retain control and be confident to disclose themselves when they feel they are being mistreated, abused or neglected (e.g., poor nutrition or hydration).

The Provider must have a written policy and procedure in place to respond to and investigate any allegations of misconduct by staff. The Provider is also required to have a whistle blowing policy.

The Provider's Adult Safeguarding procedure(s) must be compatible with the Bournemouth and Poole Safeguarding procedures. The Provider's procedures must include responsibilities:

- To report suspected, alleged or observed abuse to the Contract Officer and relevant social work team within established timescales;
- To co-operate fully with an Adult Safeguarding investigation
- To take measures to ensure the safety of Vulnerable Adults when an allegation is made about a member of staff
- Have a robust whistle-blowing policy in place.

3. Mental Capacity Act

Providers must at all times, comply with the requirements of the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards (2007) legislation and follow the guidance within the Code of Practice. In particular, every adult has the right to make

his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.

Copies of the Code of Practice must be made available for staff to reference at all times. The legislation provides a framework to empower and protect people who may lack capacity to make some decisions for them.

A Bill is currently progressing in regards to the current DOLS legislation and Providers will need to be aware of any changes made subsequently.

4. Other Key Legislation, Policy Frameworks and Guidance

The following list of legislation is not exhaustive, but Providers shall adhere to the stature, policy frameworks and guidance contained within the following:

- Equality Act 2010
- Care Standards Act 2000
- Domiciliary Care Agencies Regulations 2002
- Health and Safety at Work Act 1974
- General Data Protection Regulations Act 2018
- Control of Substances Hazardous to Health Regulations (2002)
- Report of Injuries, Diseases & Dangerous Occurrences Regulations (1995)
- Food Safety Act 1990
- Manual Handling Operational Regulations 1992
- Working Time Directive 1998
- Employment Act 2008
- Human Rights Act 1998
- Provision of Use of Work Equipment Regulations 1998
- Freedom of Information Act 2000

Providers will demonstrate how the service will meet the objectives contained within the Social Value Act 2012 and benefit the wider local community particularly relating to investment in the social care workforce, early help and community engagement programme.

5. Links to Online Policy Guidance

- Pan Dorset Multi-Agency Safeguarding Policy and Procedures Manual
Available at: <http://pandorsetscb.proceduresonline.com/>
- Care Quality Commission – the independent health and social care regulator.

Available at: Care Quality Commission <http://www.cqc.org.uk/>

- How we inspect and regulate – a guide for providers:
Available at: <http://www.cqc.org.uk/content/how-we-inspect-and-regulate-guide-providers>
- Disclosure and Barring Service
Available at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>
- Safeguarding People – Care Quality Commission
Available at: <https://www.cqc.org.uk/content/safeguarding-people>
- Care Certificate – Skills for Care
Available at: <http://www.skillsforcare.org.uk/Learning-development/Care-Certificate/Care-Certificate.aspx>
- Dignity in Care – SCIE
Available at: <http://www.scie.org.uk/publications/guides/guide15/>
- Homecare – delivering personal care and practical support to older people living in their own homes – NICE
Available at: <https://www.nice.org.uk/guidance/ng21/chapter/recommendations>

6. Learning Disability Specific Guidance

The aspirations of Valuing People (2001) and Valuing People Now (2009) are as relevant today as they were when first published.

However, in the wake of the Panorama television report on the abuse at the Winterbourne View Hospital (2012) a national Transforming Care Programme (TCP) has been launched.

Although the TCP work is focussed primarily on improving the independence, well-being and health of people with a learning disability and or autism whose behaviours challenge services, many of the recommendations are applicable to the wider learning disability community.

The focus of the programme is on closing some specialist learning disability inpatient services, and strengthening services in the community.

Transforming Care for People with Learning Disabilities – Next Steps (2015) - is a joint action plan agreed by NHS England, Local Government Association (LGA),

DH, Association of Directors of Adult Social Services (ADASS), Care Quality Commission (CQC) and HEE, to transform services for people with learning disabilities; the [joint action plan easy read](#) is also available.

[National plan, Building the Right Support \(2015\)](#) – a national plan developed jointly by NHS England, the LGA and ADASS, covering services across health and care; an [easy read version of the national plan](#) is also available.

[Service Model \(2015\)](#) - nationally developed jointly by NHS England, the LGA and ADASS, with [supplementary information for commissioners](#); The Service Model has nine core principles which describe what good services should look like and supports the national plan; an [easy read version of the Service Model](#) is also available.

Building the Right Support and the national Service Model were published with the mandate that commissioners (NHS and local authority) formulate joint transformation plans to radically change services for people with learning disabilities and/or autism.

There are three consistent national outcome improvements that should be incorporated in all local plans as a minimum:

- Improved quality of care
- Improved quality of life
- Reduced reliance on inpatient care

Poole, Bournemouth and Dorset have been grouped together as a Transforming Care Partnership.

[Winterbourne View – Time for Change \(2014\)](#) - commissioned by NHS England, outlines recommendations to transform the commissioning of services for people with learning disabilities and/or autism. [Winterbourne View – easy read](#) is also available.

[Transforming Care – A national response to Winterbourne View Hospital \(2012\)](#) This agenda is aimed at children, young people and adults with a learning disability and/or autism who display behaviour that challenges, including those with a mental health condition and follows on from Winterbourne View.

Learning Disability Health Checks – Annual health checks are a ‘reasonable adjustment’ to overcome known health inequalities faced by people with a learning disability.

These inequalities have been highlighted in a number of reports:

- ‘Closing the Gap’ (2006) - Disability Rights Commission
- ‘Death by Indifference’ (2007) - Mencap

- 'Healthcare for all' (2008) - Independent Inquiry into Healthcare for People with Learning Disabilities
- 'Six Lives' (2009) - Parliamentary and Health Service Ombudsman and the Local Government Ombudsman
- Confidential Inquiry into premature deaths of people with learning disabilities (2013)

The government is committed to reducing the incidence of co-morbidities and premature deaths for people with learning disabilities and supports the recommendations from the Confidential Inquiry into premature deaths for people with learning disabilities.

Primary Care has been asked to deliver learning disability health checks as an enhanced service since 2014. GP Practices are encouraged to identify all patients aged 14 and over with learning disabilities, to maintain a learning disabilities 'health check' register and offer them an annual health check, which will include producing a health action plan. From the numbers currently on practice registers, it is estimated that approximately 240,000 patients fall into this category across England.

Confidential Inquiry into premature deaths of people with learning disabilities (CIPOLD), Department of Health (2013) - was tasked with investigating the avoidable or premature deaths of people with learning disabilities through a series of retrospective reviews of deaths. The aim was to review the patterns of care that people received in the period leading up to their deaths, to identify errors or omissions contributing to these deaths, to illustrate evidence of good practice, and to provide improved evidence to avoid premature death.

The Inquiry found that women with learning disabilities died on average 20 years younger than women in the general population and men 13 years younger. CIPOLD data also showed that people with learning disabilities are three times as likely as people in the general population to have a death classified as potentially avoidable had there been the provision of good quality healthcare.

Improving the Health and Wellbeing of People with Learning Disabilities: An Evidence-Based Commissioning Guide for Clinical Commissioning Groups (CCGs) (2012) – was produced by the Royal College of General Practitioners (RCGP), along with the Royal College of Psychiatrists and the Learning Disabilities Observatory. It is designed to provide practical support to CCGs, with local authorities and learning disability partnership boards, to commission health services in ways that achieve better health outcomes for people with learning disabilities in this current financial climate.

Additional LD/Autism resources

[NHS England guidance on personalised care and support planning.](#)

[Think Local Act Personal \(TLAP\) guidance on personalised care and support planning.](#)

[National Institute for Health and Care Excellence \(NICE\) guidance on challenging behaviour and learning disabilities, section on understanding the risks of developing behaviour that challenges.](#)

[Preparing for adulthood programme, including information and guidance on EHC plans.](#)

[NHS England's Accessible Information Standard.](#)

[NHS planning guidance, section on Personal Health Budgets: Forward view into action: Planning for 2015/16.](#)

[NHS England's Personal Health Budgets Right to Have guidance.](#)

[TLAP guide to personal health budgets for people with learning disabilities.](#)

[NICE guidance on challenging behaviour and learning disabilities, sections on parent-training programmes and proactive and reactive strategies.](#)

[Positive Behaviour Support \(PBS\) competency framework.](#)

[Health Education England's learning disability skills and competency framework.](#)

[Green Light toolkit: reasonable adjustments in mental health services.](#)

[Improving Health and Lives \(IHAL\) resources on making reasonable adjustments for people who need mental health services and support.](#)

[IHAL Working Together guidance for improving support for people with learning disabilities in hospital.](#)

[NHS England Quality Checkers initiative.](#)

[IAPT Positive Practice guidance for people with learning disabilities.](#)

[2015 Directions on Annual Health Checks.](#)

Mansell Report: Services for people with learning disabilities and challenging behaviour or mental health needs report of a project group.

NHS England Care and Treatment Review (CTR) guidance.

NICE guidance on challenging behaviour and learning disabilities.
