

Codes of Conduct & Legislations in Health & Social Care in the UK

What will you learn from this module:

- **Purpose and Impact of the Legislations**
- **The Health and Social Care Act 2012**
- **The Care Act 2014 (England)**
- **The Carers Act 2016 (Scotland)**
- **Equality Act 2010**
- **Children Act 2004**
- **Safeguarding Patient's Confidentiality**
- **Data Protection Act 2018**
- **The Computer Misuse Act 1990**
- **Legislations for Accessing Patient's Records:**
 - **Access to Medical Reports Act 1988**
 - **The Access to Health Records Act 1990**
 - **The Access to Health Records (Northern Ireland) Order 1993**
- **Health and Safety at Work Act 1974**
- **Mental Health Act 2007**
- **Adult Support and Protection (Scotland) Act 2007**
- **Social Services and Well-being (Wales) Act 2014**
- **Abortion Legislations: The Abortion Regulations 1991 (England and Wales); The Abortion (Scotland) Regulations 1991**
- **The Controlled Drugs (Supervision of Management and Use) Regulations 2013**
- **Legislations for Detection and Prosecution of Crime and Road Accident**

Purpose and Impact of the Legislations

Health and Social Care is an extensive and critical aspect of a society which associates with several activities and challenges. The care needs of every individual vary. Besides, the person who seeks care can be of any age, gender or financial status. Thus, health and social care are complex too. Policies and procedures streamline and bring effectiveness to the sector.

The UK Health and Social Care legislations work as guideposts to fulfil the legal liabilities and other regulatory prerequisites.

Although the resources and setup of every organisation vary, the legislations aim to:

- control breach in regulations and standard operating procedures while delivering services
- improves productivity and drive for action in healthcare settings by making decision-making easier as everyone is aware of the operating procedures
- standardise the policies and gives a general action plan for every setting
- sets desired outcomes
- helps to achieve health goals such as:
 - universal health coverage
 - fosters co-operation among organisations by assigning related responsibilities

The Key Legislations Related to Health and Social Care in the UK

The Health and Social Care Act 2012

The Act has restructured the NHS in England by:

- abolishing strategic health authorities and primary care trusts and transferring the healthcare funds to clinical commissioning groups (GPs and private service providers)
- the responsibility of society's health was taken away from the Secretary of State for Health



Furthermore, the legislation defines the functions of the CCGs and directs them to work towards:

- minimising inequalities among patients in accessing healthcare facilities
- reducing inequalities in terms of getting the outcomes
- encouraging patient-carers partnership for taking joint decisions related to health service provisions
- offering choices to patients concerning healthcare services

Part 1 & 2 of the Act

- Section 9 relates to the establishment of NHS England.
- Section 10 of the Act directs to establish CCGs responsible for arranging health provisions in their dedicated areas.
- Section 11 defines the duty of the Secretary of State to work towards improving public health.
- Section 12 states that local authorities are responsible for the health improvement of people in their areas.

Part 3 of the Act sets statutory guidelines for the regulation of health and adult social care services.

Part 6 sets guidelines for primary care services.

Part 7 furnishes directives for health and social care workers.

Part 9 relates to the health and adult social care services.



The Care Act (England) 2014

Part one of the Care Act sets guidelines for local authorities to render social care in the UK and promote welfare. The Care Act outlines the responsibilities of local authorities as:

- prevention of support and care needs
- offering information and advice
- streamlining the market of care and support services
- integrating care and support with health provisions

In 2014, the statute became a law that combines all the previous codes about social care with new rules and policies that further strengthened the rights and duties.

The statutory guidance that section 1 of the Care Act underpins are:

1.2 states that local authorities must prioritise safety while delivering health and support services to a person. The principle is known as the Wellbeing Principle.

1.3 & 1.4 – The principle applies to any person, adults with care needs and carers. Children and their young carers or carers during their transition assessment also qualify for the Wellbeing principle.



It assigns new responsibilities to the local authorities via subsections, such as:

- providing appropriate services to the people in the area so that care needs get resolved before becoming serious
- promoting choice and quality while providing services
- empowering people access the appropriate information and advice about the care and support
- assessing the available local resources and support in the area and determining their adequacy to fulfil the care needs
- identifying those people and carers whose care or support needs are not met
- collaborating with local communities and other partners to arrange services for the independence and welfare of the people

The Care Act also directs the Local authorities to keep people informed about the type and range of care support available to them and the procedure to access independent financial advice. It also necessitates local authorities to provide the information in appropriate format regarding raising concerns about the safety of the person in need.

The Act sets legislation for local authorities to develop a market that offers quality care and support services. They should work closely with the local providers to create new services that offer choice and efficiency for future needs.



The Carers (Scotland) Act 2016

The Carers (Scotland) Act 2016 is a Scottish Parliament Act that came into force in April 2018. It aims to bring improvement in the lifestyle and health of the carers and the young carers.

The directives that make caring a sustainable process are:

- defining the duties of the local authorities - identifying and supporting the needs of the carers if they fulfil the local eligibility criteria
- identifying carer's needs through adult carer support plan (ACSP) and young carer statement (YCS) and offer a tailored approach to meet positive outcomes
- promoting information and suggestion provisions for carers to provide advice related to their rights, advocacy, maximising income, etcetera
- the local authority to consider the nature of support to be offered, such as a break from caring or desirable planned breaks



Equality Act 2010

The Equality Act is an anti-discriminatory law that condemns the practice of unfair treatment or harassment based on age, gender, sexual orientation, race, religion, pregnancy or maternity and disability in education, workplace, services and public functions.

Protecting the dignity of people with needs and care providers are prime in the health and social care sector. The legislation aims to protect them against discrimination based on the grounds mentioned in the UK law.

The Key Provisions of the Act are:

- protection against discrimination against disabled persons
- protection to carers from maltreatment and providing them rights to seek flexible work timings
- To avoid unfavourable treatment towards care workers by service providers while procuring goods, services and facilities. It may happen because they are associated with a person having protected characteristics.

Children Act 2004

Children are among the vulnerable group of society, and hence legislations related to their safety and well-being are mandatory. The Children Act 2004 is an amendment to the Children Act 1989 that guides all child-oriented organisations to prioritise safeguarding child's interests and welfare in their agenda.

Section 17 of the Act puts a legal obligation on the local authorities to provide adequate services to the children in need of their area.

As per Section 47 of the Act, the local authorities must investigate circumstances that may pose serious harm to a child. They must also look into complaints or allegations of abuse and neglect of children and act appropriately to stop.

It further defines the responsibilities of local authorities towards looked-after and disabled children as a part of Children's Social Care (CSC) such as adoption, child protection, family assistance, court liaisoning, foster care and children's homes.



Safeguarding Patient's Confidentiality

What is the Patient's Confidentiality?

Patient's confidentiality aims to protect the personal or medical details of an individual against disclosure. The law states that no medical practitioner is authorised to reveal personal or medical information; and consultation or treatment details to others unless the patient consents to do so. The law applies to the information on paper, digitally stored (in computer, audio and visual) or retained in the practitioner's memory.

Confidentiality is crucial in healthcare because it develops trust between the patient and the doctor and allows the patient to give relevant information to the practitioner. However, a breach of confidentiality can make the patient reluctant to share details with the doctor, which will affect the treatment adversely. That is why it is a legal requirement with the NHS Care Record Guarantee.



The NHS Codes of Confidentiality

- safeguarding the patient's information in all circumstances
- Inform the patient about how his details will be used during treatment
- The patient gets the choice to decide the way his details are used by healthcare professionals.
- Identify scope for improvements

Common-Law Duty of Confidentiality: The law that is based on the previous court cases and decisions made by the judges is Common Law Duty of Confidentiality. Unlike acts, the common law is not written in a document form.

As per the Common Law Duty of Confidentiality, disclosures are legal if:

- the individual agrees to share his details and provides a written consent
- it is necessary for the welfare of the patient, others or in the public interest
- the court orders to do so as a legal requirement

The law directs that the decision to disclose should be a documented process. For instances, where the disclosure is done in the public interest, a satisfactory justification and expert legal advice should be mandatory.

Acts that compliments Safeguarding Patient's Confidentiality

Data Protection Act 2018

The Data Protection Act, 2018 of the UK Parliament sets guidelines for the government, institutions, services, and businesses to use an individual's data. It is a national law that acclaims the General Data Protection Regulation (GDPR) of the EU.



It holds immense importance in social care and states that public and private organisations must protect personal information. It intends to safeguard the dignity and human rights of people by making sure that all information held by the health and social care service providers are:

- safe and protected
- stored only with the individual's consent
- accessible to the individuals
- disclosed to others only if needed

The law requires a medical practitioner to screen the notes before disclosure.

The Computer Misuse Act 1990

The Computer Misuse Act applies when the information is held in the electronic form and states that accessing computer programmes is unlawful if a person who is not entitled to do so:

- ingresses the information without authorisation
- accesses the information to commit an offence
- impairs the operation of computer

The act also refers to health & social care and reinforces that information stored in the digital form related to an individual having care needs should not be available to others who are not authorised.



Legislations for Accessing Patient's Records:

- **Access to Medical Reports Act (AMRA) 1988** – The Act allows employers or insurance providers to access an individual's medical records provided by a doctor for employment or insurance purposes, respectively. It is per the employment laws in the UK. However, the individual may refuse consent for sharing his details with the employer. Hence, the employers must first obtain written approval from the prospective employee and provide a related summary of the statement of rights to him.
- **The Access to Health Records Act 1990** – Section 3(1) (f) of the AHRA 1990 authorises some individuals the right to access the medical records of a deceased person. Such individuals are either claimant of benefit or title or the personal representative of the patient.

The personal representative has an unqualified right on the records of the deceased that means he does not need the authorisation to do so, but he has to furnish evidence of identity.

The claimants need to establish a claim by providing adequate supporting evidence. However, whether the claim gets accepted depends on the record keeper who can seek legal advice in situations of confusion.

- **The Access to Health Records (Northern Ireland) Order 1993** – The order establishes a restricted right of a person on the health records of a deceased person. Similar to the Access to Health Records Act 1990, the personal representative of the deceased or someone who has a claim due to the death can access the records. The rights are restricted if:
 - ✓ the deceased person did not wish to share the information, and there is evidence in support
 - ✓ the disclosure can bring threat to any person's mental or physical well being
 - ✓ There is a third party identified which has not consented to the disclosure.

Health and Safety at Work Act 1974 (HASAWA 1974)

HASAWA is a crucial aspect of the legislation that sets out the framework for health and safety in Great Britain's work settings. Section 2, 7 and 8 of the Act of Parliament has defined the responsibilities of the employers, employees, and all the staff working or related to the work premises for managing health and safety in the workplace.

The businesses that are at higher risk owing to the environment have specific regulations to follow.

The directives of HASAWA 1974 for workplaces include:

- adequate training to the employees regarding health and safety procedures
- a safe working environment that fosters safety regulations that are well understood and followed
- provisions for the welfare of staff at the workplace
- access to information and instructions related to safe operations
- provision for maintaining a written record for their policies related to health and safety (if there are five or more employees)



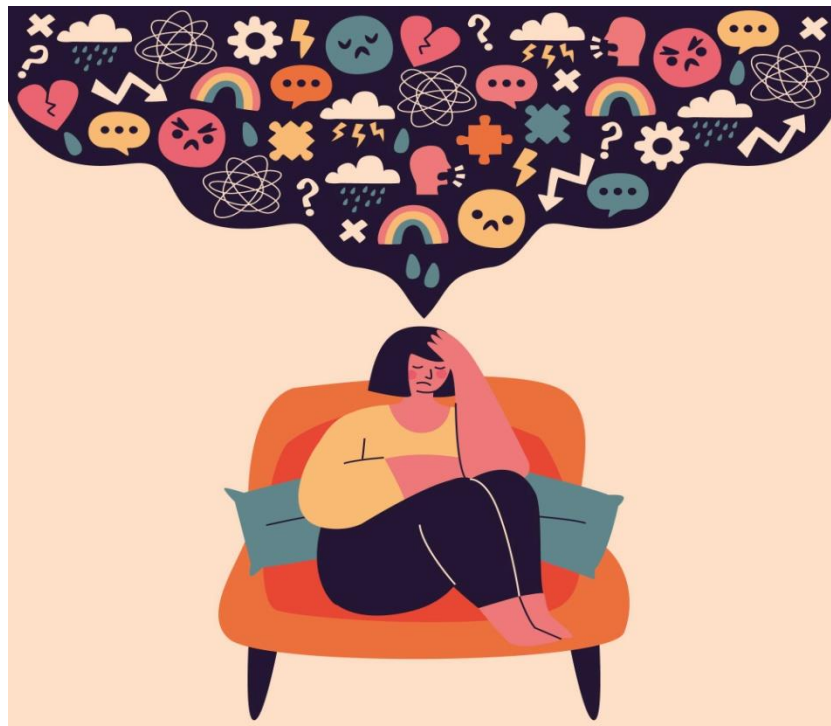
Workplace (Health, Safety and Welfare) Regulations 1992 (HSW)

The HSW regulations set statutory guidelines for the employers to create an environment that is safe for the employees to work and carry out their responsibilities. It covers comprehensive aspects of the workplace and includes provisions for:

- maintaining appropriate work areas by arranging proper ventilation, room space, lighting, etcetera
- Safety at the workplace by proper maintenance of equipment, walking areas, floor and ceilings. It also sets guidelines storage of harmful materials and protection from materials that can be potentially harmful.
- Sanitation in break rooms, drinking water, toilets and washing facilities

Mental Health Act 2007

This Act of UK Parliament came into force in 2008 and amended the Mental Health Act 1983 and Mental Capacity Act 2005. The act gives health practitioners the right to decide if an individual with a mental disorder should be diagnosed, treated or detained based on the situation. The legislation aims to safeguard the welfare of the person with mental incapacities and others who may be harmed if the person is not treated appropriately.



It means that medical professions or doctors treating a mentally disabled person do not need the patient's consent if they feel that leaving the person untreated is a threat to the patient or the public. In such cases of emergencies, under Section 135 warrant, the legislations give powers to the police to enter his house and take him to a safe place for assessment by a mental health care provider.

The police can detain and seek medical treatment for a mentally disabled person in immediate care needs if found in a public place, under Section 36 of the Act.

As per the act:

- Patients detained get confined to the hospital until the doctor permits. However, family and relatives may visit him during the visiting hours.
- Patients who do not wish to meet the visitors have the right to refuse the meeting, and the hospital staff should respect his decision.
- Doctors can discuss the patient's treatment schedule with family and relatives after the patient has consented.
- Family members and relatives have the right to voice their concerns with doctors and nurses regarding the treatment plan or any other aspect that may affect the patient's wellbeing.
- The hospital must arrange for age, physical state and gender-appropriate facilities for the patients. For instance, there must be provisions for separate wards and washing facilities for male and female patients and appropriate toilets for physically disabled persons.

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

Adults are a vulnerable group of society and need special protection and assistance. For the wellbeing of the adults, the Scottish Parliament sets provisions through the Adult Support and Protection (Scotland) Act 2007.

The Act states that all adults have the right to stay safe from all kinds of risk of harm (self-harm or neglect) and aims to safeguard the welfare of adults with:

- illness
- disability
- mental disorder
- infirmity arising due to physical or mental state

Part 1 of the Act places responsibilities on the council to stay informed about the wellbeing and financial aspects of an adult, especially if it sees a potential risk to the adult. It also sets directives for them to work closely with public bodies to protect the legislation and offer best practices in health and social care.

ASPA in Scotland has set up Adult Protection Committees (APCs) that are multi-agency bodies in every council which work at the local level to safeguard adults and identify areas of improvement through inspections.



Social Services and Well-being (Wales) Act 2014

The Act came into effect in 2016 and provided a statutory framework for people with needs and carers who required support to improve social services in Wales.

The Act underpins the fundamental principles, which are:

Wellbeing – encouraging people to attain wellbeing on their own and reviewing the efficacy of care and support

Voice and control – prioritising the individual needs and enabling them to voice and control the outcomes that affect their wellbeing

Co-production – fostering active support from individuals for structuring and delivery of care and needs services

Prevention and early intervention – adopting preventive measures at the community level to minimise critical needs

On 30th June 2015, the Act was further strengthened and a written statement was issued that gave details about how the Act meets the needs of children and young people. It also stated about provisions like:

- Standards for building affordable homes in Wales
- support for families and vulnerable people

Abortion Legislations

The Abortion Regulations 1991 (England, Wales & Scotland)

Abortion is legalised across the UK after the Abortion Act 1967 came into effect. In England, Wales and Scotland, the Act directs that Women can procure abortion within 23 weeks and six days of pregnancy. An ultrasound scan confirms how old the foetus is. However, this gestational limit does not apply if:

- the foetus is a threat to the woman's life
- foetal abnormalities are detected
- continuing the pregnancy may result in the mother suffering from severe physical or mental injury

As a statutory requirement, only an NHS hospital or a licensed clinic can carry out an abortion. The NHS provides free abortion care.

As per the regulations, the health professionals must ask a woman the reason for considering abortion which must be documented in her medical records too. Also, two doctors must ensure that all the legal requirements of the Abortion Regulations 1991 are met before issuing a consent certificate.

Women have the right to procure miscarriage per the Act. She has the right to get suggestions from friends and relatives, but the ultimate decision lies with her. She can seek assistance from a pregnancy counsellor, her GP, counsellor at an abortion clinic if she has concerns.

If the woman wishes to keep the matter confidential, then doctors must respect her decision.



The Abortion (Northern Ireland) Regulations 1991

The Abortion Regulations in Northern Ireland differs from other countries. The Republic of Northern Ireland permits abortion only if it is life-threatening for the mother, or there are possibilities of grave mental and physical damage to the mother.

Some legislation on abortion was also introduced through the Protection of Life during Pregnancy Act 2013 and the Health (Regulation of Termination of Pregnancy) Act 2018.

The route to the current abortion regulations in Northern Ireland

1861 Law: The 1861 law declared abortion a criminal offence and restricted abortion care.

1945 Law: It allowed the procurement of miscarriages to save a mother's life. However, abortion was not legalised in cases such as rape, foetal abnormalities or if there is the possibility of the child's death after the delivery.

It must be noted that the Abortion Act 1967 was not extended to Northern Ireland.

The abortion regulation was challenged in the court as women had to travel to other countries for abortion care that caused trauma and were expensive. The case went in favour of the plaintiff, post which it was stated that women from Northern Ireland can undergo abortion in England, Wales and Scotland at no cost. Hence, women travelling from Northern Ireland to these countries get legal abortion treatment.

UK abortion regulations direct

- all the healthcare providers in the UK to adhere to laws governing patient's confidentiality and data protection during abortion care
- NHS funds most of the abortion treatments. Those who are not eligible for funding can opt for private abortion care.

The Controlled Drugs (Supervision of Management and Use) Regulations 2013

The NHS reforms resulting from the Health and Social Care Act 2012, led to the amendment of the Controlled Drugs (Supervision of Management and Use) Regulations 2006 that came into effect in 2013.

The Act aims for the safe use of controlled drugs (CDs) in Scotland and England



Regulations 11-13 defines the responsibilities of the Controlled Drugs Accountable Officer (CDAO) within their organisations that include:

- adherence to Misuse of Drugs legislation
- safe management and auditing of CDs based on appropriate SOPs
- development of an effective system for reporting concerns related to CD use
- investigation of concerns and taking appropriate action
- appropriate training to the staff of the organisation about governance arrangements
- sharing information about the provisions with individuals
- appropriate disposal of CDs



Regulation 6 issues a list of responsible bodies for the management of drugs

- Healthcare Improvement Scotland (HIS)
- the Care Quality Commission (CQC)
- local authorities
- the police
- CCGs in England
- healthcare providers and their CDAOs

Regulation 17 & 18: They state that CDAOs must carry out inspections of premises that are concerned with drug management.

Regulation 19 gives rights to HIS, CQC and Care Inspectorate in Scotland to procure information related to CD management from the related bodies.

External monitoring and compliance with the regulations are monitored by the CQC as per the UK Government's guidance.



Legislations for Detection and Prosecution of Crime and Road Accident

Crime and Disorder Act 1998 (UK)

The Act had received Royal Assent in 1998. The prime areas of emphasis under the Act are anti-social behaviours, parenting Orders and sex offender Orders. The Act puts more responsibilities to local authorities to minimise crime and unrest and frame appropriate SOPs to control offences related to racism or religion.

One of the aspects of the Crime and Disorder Act is that it has abolished the rebuttable presumption that a child in the age group of 10-14 years cannot commit a crime.



Criminal Law Act (Northern Ireland) 1967

The Criminal Law Act (Northern Ireland) 1967 aimed to simplify the laws by abolishing felonies. It directed that the felonies will be tried per the rules of trial and pre-trial jurisdictions for misdemeanours. It applies to felonies done before or after the Act came into force.

Section 5 of the Act states that not reporting a relevant offence to the police is a crime that also includes crimes against children. The law aims to safeguard society against crimes of any kind.



Road Traffic Act 1988 (England, Scotland and Wales)

The Act aims to provide safety and legislation in the public roads of the UK. It states that driving without considering other's safety is a punishable offence and applies to all motorists and drivers.

There are six sections of the Act, the key legislations are:

Section 1: The Road Safety Provisions

- Prohibits driving when in the influence of drugs or alcohol.
- mandates wearing seat belts and helmets while driving cars and motorbikes
- States that drivers must consider pedestrians' safety while on public roads. Motorists splashing pedestrians could be fined heavily or face nine points on their license.

Section 5: Driving Instruction

Drivers are not allowed to drive unless they have a registration and license for it. Also, they must have passed the driving tests.

The police enforce the Road Traffic Act 1988. Hence, any breach in the code of conduct is subject to the enforcement regulations of the local police station.



