

# Adult Health And Social Care

**The Challenge of Administering  
Adult Services Law**

# Webinar Topics

- ▶ **Legislation**
- ▶ **Law Commission Report on Adult Social Care**
- ▶ **Concerns and challenges in Adult Social Care**
- ▶ **Health And Social Care Bill 2011**
- ▶ **Questions**

# Legislation

Social care law has developed “piecemeal” since the National Assistance Act in 1948, .... There are now over 40 separate laws and thousands of pages of guidance. This has resulted in a system that is confusing for users, and at times contradictory.....

▶ <http://www.bbc.co.uk/news/health-13349736>

# Adult Services Legislation

- ▶ National Assistance Act 1948
- ▶ National Assistance (Amendment) Act 1951
- ▶ Health Services and Public Health Act 1968
- ▶ Chronically Sick and Disabled Persons Act 1970
- ▶ Mental Health Act 1983
- ▶ Disabled Persons (Services, Consultation and Representation) Act 1986

- ▶ National Health Service and Community Care Act 1990
- ▶ Carers (Recognition and Services) Act 1995
- ▶ Disability Discrimination Act 1995
- ▶ Community Care (Direct Payments) Act 1996
- ▶ Data Protection Act 1998

- ▶ Health Act 1999
- ▶ Care Standards Act 2000
- ▶ Community Care (Delayed Discharges etc.) Act 2003
- ▶ Carers (Equal Opportunities) Act 2004
- ▶ Mental Capacity Act 2005
- ▶ National Health Service Act 2006

- ▶ National Health Service (Consequential Provisions) Act 2006
- ▶ Mental Health Act 2007
- ▶ Health and Social Care Act 2008
- ▶ Health Act 2009
- ▶ Health and Social Care Bill 2011

# National Assistance Act 1948

s47 of the National Assistance Act  
Act 'on the statute book' but  
not currently in use

- ▶ **Section 47:** *Removal to suitable premises of persons in need of care and attention*

# S47

- ▶ (1) The following provisions of this section shall have effect for the purposes of securing the necessary care and attention for persons who:–
  - ▶ (a) are suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and
  - ▶ (b) are unable to devote to themselves, and are not receiving from other persons, proper care and attention.


# Social Care

- ▶ Social Care concerns itself with helping people live their lives comfortably, particularly those people who require a certain degree of extra practical and physical help.
- ▶ Social care workers endeavour to provide this service of practical support with a view of helping individuals maintain their independence, to increase their quality of life and to help them lead fuller more enjoyable lives.
- ▶ Social care workers often just help out with those everyday tasks that seem small to the average person, but can make a massive difference to someone else's life as well as being a rewarding experience for the carer involved.
- ▶ <http://nisw.org.uk/socialwork/>

# Social Work

- ▶ Social work is involved with helping individuals live a comfortable, high quality standard of life, with emphasis on those individuals who require a certain level of extra practical and physical help.
- ▶ <http://nisw.org.uk/socialwork/>

# Who Do You Work With?

People can be mystifying, aggravating, fascinating, rewarding. But they are never boring. The old man next door may appear threatening, dirty, noisy, eccentric. 

**But.....**

to social workers he may be depressed, frightened and lonely and it is their job to help him and the local community understand the problem. They organise care and support for the more vulnerable members of society: assess their needs and provide services to meet those needs.

Extract from Job Description

<http://www.lgcareers.com/careers-az/social-worker-adult-services>

The social worker needs to care about people, and in this case the elderly, and so must have:

- ▶ the ability to communicate with people from all walks of life
- ▶ respect for the rights of elderly people
- ▶ an ability to identify and challenge discrimination

- ▶ good interviewing, listening and observation skills
- ▶ negotiating and organising skills
- ▶ the ability to deal with difficult situations and conflict
- ▶ a stable temperament
- ▶ report writing skills.

# No Duty

- ▶ No law placing a duty on councils to support elderly people, they do have legal obligations to look after those with disabilities and mental health problems.
- ▶ <http://www.bbc.co.uk/news/health-13349736>

# Competent Workers

“Many social workers have a background in social care: There are many social workers who have worked their way up from jobs such as care assistants to become extremely competent social workers”

- ▶ *Dr Jean Dillon senior lecturer in Social Work at Middlesex University in London.*

# Law Commission Review on Adult Social Care

- ▶ Set out recommendations for the reform of adult social care law
- ▶ The review, concluded that the current patchwork of more than 40 laws covering adult social care is “outdated and flawed”.
- ▶ “This report provides the foundation for the most significant single reform of social care law in 60 years,” Care Services minister Paul Burstow.

- ▶ The UK government has not yet said which recommendations it accepts.
- ▶ The purpose of the review – to streamline adult social care law, offering new rights for service users and duties for local authorities.

# Law Commission Review on Adult Social Care

Defines 'Adult Social Care' as being:

- ▶ **“the care and support provided by local social services authorities pursuant to their responsibilities towards adults who need extra support. This includes older people, people with learning disabilities, physically disabled people, people with mental health problems, drug and alcohol misusers and carers”**

- ▶ Part 2 explains the need for a more robust definition of what or rather, who, comes into the definition of ‘adult social care’ in legislation. It talks about who is eligible and who is ineligible to receive services from social services departments as well as duties regarding assessment and provision of service.

Principles of provision of social care split into two:-

1. Universal – advice, information and support

and

1. Needs identified following an assessment

# Legislative powers and guidance,

## Three 'levels'

- ▶ – Primary Legislation
- ▶ – Statutory Instruments
- ▶ – Statutory Guidance

... "Our role is to produce a clear, consistent and comprehensive legal framework to reform the way adult social care is delivered across the country."

- ▶ **Frances Patterson QC, the law commissioner leading the review**

# BASW & CoSW view of review

- ▶ BASW/CoSW welcomes aspects of the review of adult social care law but warns there is an “unacceptable erosion of the social worker role” in the review.

- ▶ *"one-off opportunity to replace this dog's breakfast with a clear, logical and consistent framework".*

Michelle Mitchell, of the charity Age UK

- ▶ **To view the full report visit**  
[www.justice.gov.uk/lawcommission/publications/1460.htm](http://www.justice.gov.uk/lawcommission/publications/1460.htm)
- ▶ <http://www.basw.co.uk/news/concern-at-erosion-of-social-worker-role-in-adult-care-review/>

# Challenge for Practitioners

- ▶ **High Case loads**
- ▶ **Insufficient funding**
- ▶ **Different status with health workers**
- ▶ **Understanding and working with the legislation.**
- ▶ **Expectations of families**

# Why Become A Social Worker?

1. Helping Others Make Positive Changes in Their Lives
2. Pursuing Job Growth Potential
3. Furthering a Cause You Are Passionate About
4. Embracing Curiosity about Human Behaviour
5. Achieving Personal Fullfilment

▶ [Reasons to Become a Social Worker | eHow.com](http://www.ehow.com/about_5457615_reasons-become-social-worker.html#ixzz1j6LBFGFe)  
[http://www.ehow.com/about\\_5457615\\_reasons-become-social-worker.html#ixzz1j6LBFGFe](http://www.ehow.com/about_5457615_reasons-become-social-worker.html#ixzz1j6LBFGFe)

# The Future

# Health And Social Care Bill 2011

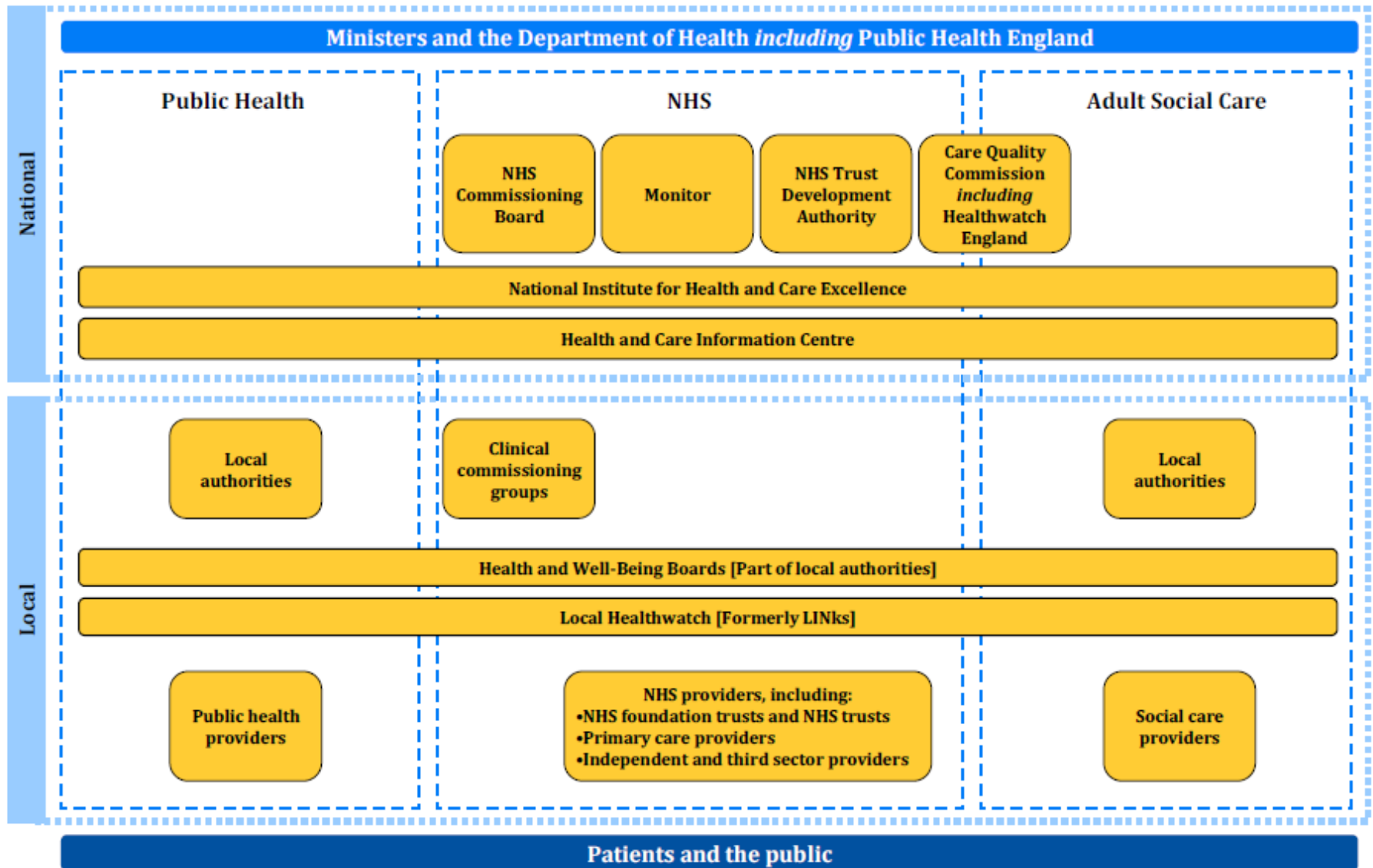
- ▶ By April 2012 it proposed to:
- ▶ establish the independent NHS Commissioning Board
- ▶ establish new local authority health and well-being boards
- ▶ develop Monitor – Independent Regulator for NHS Foundation Trusts

## Stephen Cragg of Doughty Street Chambers, on behalf of the 38 Degrees campaign,

- ▶ "Effectively, the duty to provide a national health service would be lost if the Bill becomes law, and would be replaced by a duty on an unknown number of commissioning consortia with only a duty to make or arrange provision for that section of the population for which it is responsible." It replaces a "Duty to provide" with a "Duty to promote".
- ▶ [http://en.wikipedia.org/wiki/Health\\_and\\_Social\\_Care\\_Bill\\_2011](http://en.wikipedia.org/wiki/Health_and_Social_Care_Bill_2011)

# Overview of health and social care structures in the Health and Social Care Bill

April 2013



# QUESTIONS?