



Better law for the elderly and disabled people

Overhauling the outdated laws that govern the care provided to elderly and disabled people will save unnecessary red tape, delays and litigation, and public money.

The Law Commission, which advises the Government on law reform, today proposes the most radical shake-up of adult social care law for more than 60 years.

A wide-ranging package of reform proposals includes clearer rights for the estimated six million carers who give up their time to look after elderly and disabled friends and relatives.

Adult social care provides essential services such as residential care homes, community care, and protection for the most vulnerable adults in society: the elderly, disabled people and their carers.

The law governs how individuals' needs are assessed, who is eligible to receive help and what services are provided. But the rules are currently spread across 38 separate Acts of Parliament and most services are still delivered under an Act of 1948. There is also a mass of policy guidance.

This can cause confusion, delay and inconsistency. As a result, the existing system is time consuming and expensive to operate, leading to unnecessary delays and litigation.

What the Commission suggests is a single, clear and modern statute to replace the current legal framework. Provisional proposals include:

- establishing a core set of overarching principles to guide social care decisions;
- introducing a single and explicit duty to assess individuals' needs;
- a duty on local authorities to provide community services for all those eligible;
- the introduction of a single duty to assess the needs of any carer;
- a statutory duty on local authorities to investigate when they suspect that vulnerable adults are being abused or neglected.

Frances Patterson QC, the Law Commissioner leading the project, said: "It is unacceptable that people should have to look at more than 38 Acts of Parliament,

plus thousands of pages of guidance, to work out what the system is for delivering these essential services.

“We are developing recommendations for reform to ensure that disabled people, older people, carers, and professionals working in the field can be clear about users’ and carers’ rights to services. We are seeking to bring clarity to the system of social care. We are not seeking to change existing entitlements. A clear, modern statute will save time and money wasted on operating the current time-expired system.”

The Law Commission’s review does not look at the funding of adult social care and is independent of the current Government proposals in relation to the funding of care for older people.

The Commission’s provisional proposals, questions and arguments for reform are set out in Adult Social Care (Law Commission Consultation paper No 192). A summary is also available. The consultation closes on 1 July 2010.

To encourage the broadest range of contributions, the Commission is making its consultation paper, summary and outline of the proposed new statute available in English and Welsh in a number of formats, including large print, easy read and audio. It is also opening an online discussion forum to provide a space where contributors can explore the issues and discuss potential solutions. To join the discussion, visit the Law Commission website www.lawcom.gov.uk

Notes for Editors

1. The Law Commission is a non-political independent body, set up by Parliament in 1965 to keep all the law of England and Wales under review, and to recommend reform where it is needed.
2. For more details on this project, visit www.lawcom.gov.uk/adult_social_care.htm
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