

FACTFILE: GCE HEALTH & SOCIAL CARE

AS 1 PROMOTING QUALITY CARE



Legislation that promotes quality care

Students should be able to:

Apply knowledge and understanding of how the key features of legislation or convention promote quality care and the impact of the health, social care and early year settings:

It is important to understand how laws impact on health, social care and early years settings.

The United Nation's Convention of the rights of the Child (UNCRC) ratified 1990

The United Nations Convention on the Rights of the Child (UNCRC) is an international human rights treaty that grants all children and young people (aged 17 and under) a comprehensive set of rights. There are 54 Articles within this treaty. You can read [a summary of the articles here](#). UNICEF has also produced a child friendly version of the convention which can be accessed on the [UNICEF website](#).

The Northern Ireland Commissioner for Children and Young People is responsible for promoting and protecting children's rights in this country and gives advice to the assembly on how government must adhere to the rights in the convention. You can [read examples of this in the publications on the website of the Commission](#).

Examples of how it impacts on health, social care and early years settings



- Article 31 gives children the right to play and to be creative. All early years settings like playgroups, crèches and nursery schools need to provide children with the space and resources to play and to express themselves through art. This can be seen in the wide range of play materials and activities offered in these settings. Children's wards in hospitals also provide opportunities to play, often under the supervision of a specialist play therapist.

- Article 37 gives children the right to be protected from degrading treatment or punishment and Article 28, which relates specifically to education, requires discipline in schools to respect children's dignity. This means that early years settings like schools must have policies and procedures for disciplining children that require staff to respect children and treat them fairly. Staff are trained to discipline children in ways, which respect this right, for example by using an appropriate tone of voice.
- Article 16 gives children the right to a private life. This means that children in a residential setting like a children's home have the right to some private space where they can choose to be alone at times. They also have the right to have a personal documents kept private, for example a diary which staff should not look at.

Activity

Choose another two articles from the convention and suggest how they impact on a health, social care or early years setting.

The Special Educational Needs and Disability (Northern Ireland) Order 1995 updated 2005 and again by the Special Education Needs and Disability Act (Northern Ireland) 2016

This law increases the rights of children with special educational needs (SEN) to attend mainstream schools and introduces disability discrimination laws for the whole education system. You can read about this piece of legislation at the [NIDirect website](#).



How it impacts on health, social care and early years settings

- SENDO gives children with learning disabilities the opportunity to have their needs met in a mainstream school, so it requires schools to have a policy for special needs and requires that the needs of children with special educational needs should be properly identified.
- SENDO requires adaptations to be made to meet the needs of children with learning disabilities; teachers are required to adapt resources to meet the needs of pupils, for example worksheets suitable for a child's ability or magnified resources.
- SENDO requires schools to provide an annual review for children with "statements" of need and to meet with their parents and keep them informed.
- It requires schools to appoint a special educational needs coordinator (SENCO) – responsible for ensuring the needs of children with learning disabilities are met.

Activity

Invite the SENCO within your own school to give a talk explaining the key points of SENDO and the role of a SENCO in a school. Ask the SENCO to give you examples of 'reasonable adjustments' that have been made under SENDO in your school.

Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 as amended by Protection of Freedoms Act 2012

The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, as amended by the Protection of Freedoms Act 2012, provides arrangements, known as the Vetting and Barring Scheme (VBS), to prevent individuals who are unsuitable for working with vulnerable people from doing so. The Order established the Independent Safeguarding Authority (ISA) to register those working with children and vulnerable adults and to keep lists of those barred from doing so on the basis of harm or risk of harm. [Access The Safeguarding Vulnerable Groups \(Northern Ireland\) Order here](#).

Activity

Using the link above read Section 3 and give 5 examples of people who would be considered 'vulnerable adults' under the Order.



How it impacts on health, social care and early years settings

- All settings where children or vulnerable adults are cared for must have robust recruitment and staff selection procedures, which include carrying out pre-employment criminal record checks through [Access NI](#) procedures. This applies to volunteers as well as employees. The enhanced checks needed for working in health and social care settings include checks of criminal records held by the police and of all records held by the Disclosure and Barring Service (DBS), which is responsible for maintaining the list of individuals barred from engaging in regulated activity (this simply refers to all the types of work or activity that are covered by this legislation) with children and vulnerable adults across England, Wales and Northern Ireland. Any health, social care or early years organisation that knowingly allows a barred person to work in regulated activity is breaking this law.
- If a setting dismisses or removes someone from regulated activity (or would have done had they not already left) because they appeared to pose a risk to vulnerable groups, it is legally required to pass that information to the Independent Safeguarding Authority. It is a criminal offence not to do so.

The Human Rights Act 1998

The Human Rights Act 1998 is a piece of legislation that sets out fundamental rights and freedoms for everyone in the UK. There are 16 rights in the Act, all based on the European Convention on Human Rights, a treaty or international agreement signed by 47 states. You can see the [list of the 'articles' or rights set out under the legislation here](#).

How it impacts on health, social care and early years settings

All health, social care and early years settings have a responsibility to protect the human rights of all service users and staff. Where there are failures to do so, organisations can be prosecuted or sued for breaching human rights.

Examples of rights that might be particularly relevant to patients in a hospital ward are:

- Article 2 Right to life
- Article 3 Prohibition of inhuman or degrading treatment
- Article 5 Right to liberty and security
- Article 8 Right to respect for family and private life
- Article 9 Freedom of thought, conscience and religion
- Article 14 Prohibition of discrimination

Activity

- a) Read the training exercise [Dignity Care](#), which is designed to get nurses thinking about how the Human Rights Act impacts on a hospital ward. This document gives examples of how patients' rights under the act can be infringed.
- b) Use the information and sample scenarios in this document to suggest what a hospital should be doing to adhere to any three articles of the Human Rights Act.

Disability Discrimination Act 1995 and Disability Discrimination (NI) Order 2006 [DDA]

This legislation bans discrimination by employers against disabled jobseekers or employees and by service providers against disabled service users. It requires employers and service providers to make reasonable adjustments for disabled people to help them to overcome barriers to getting or staying in employment or to accessing and using goods and services. The legislation means people with disabilities are protected from discrimination as follows –

- in accessing everyday goods and services like shops, cafés, banks, cinemas and places of worship
- in buying or renting land or property
- in accessing private facilities, such as those owned by private clubs
- in accessing important social goods and services, such as healthcare, housing and transport
- in relation to how public bodies carry out some of their other functions, such as policing and the issuing of licences.

The legislation applies in full to providers such as day nurseries, pre-schools and playgroups in the early years sector as well as health and social care services. The legislation has a special section on schools that makes it clear that it does require schools to make 'reasonable adjustments' to make sure that disabled children are not at a substantial disadvantage, however, the 'reasonable adjustments' duty does not require schools to 'provide auxiliary aids and services' or 'make physical changes to buildings'.

DDA and the Order give people with disabilities a route for redress through the courts if discrimination occurs.

How it impacts on health and social care settings

The DDA requires health, social care and early years settings to make reasonable adjustments for disabled employees and service users. The duties are 'anticipatory' – that is, service providers need to think ahead and consider what they may need to do before any problems arise.

Healthcare settings like hospitals and health centres must remove barriers to disabled people accessing their services, unless it can be argued it is unreasonable to do so. They have a duty to make reasonable adjustments. Examples might include:

- providing information in Braille and large print for patients with visual impairments
- installing automatic doors or ramps and accessible toilet facilities for patients in wheelchairs
- taking extra time to explain things to a patient with a learning disability

Activity

- Read Section 6 in the document ['Early Years and the Disability Discrimination Act 2005 What service providers need to know'](#) for examples of reasonable adjustments in early years settings.
- Make notes on adjustments that could be made in GP practices based on your reading of the document ['The Disability Discrimination Act: physical adjustments to GP premises'](#). You may find Appendix 1 particularly useful.

The Mental Health (Northern Ireland) Order 1986

Many people receive specialist mental health care and treatment in the community. Most people who receive treatment in hospitals or psychiatric units for mental health conditions are there on a

voluntary basis, however some people experience severe mental health problems that require compulsory admission to hospital for assessment and, if deemed necessary as a result of the assessment, for treatment. People can only be detained in this way if the strict criteria laid down in this Order are met.

The person must be suffering from a mental disorder as defined by the Order. An application for assessment must be made by a nearest relative or approved social worker and supported in writing by two registered medical practitioners. The recommendation must include a statement about why an assessment is necessary, and why other methods of dealing with the patient are not appropriate. Other protections for patients include clear time periods for compulsory detention, the right to a tribunal, provision for guardian ad litem and the appointment of a financial officer to oversee service users' finances to prevent exploitation. The Order also set up the Mental Health Commission to check that procedures were followed and were fair to the patient. Read the details of [The Mental Health \(Northern Ireland\) Order 1989](#).



How it impacts on health and social care settings

- If staff in any health and social care setting, such as a GP surgery, day centre or general hospital, are concerned about the mental well-being of a service user to the extent that they fear the individual may pose a risk to themselves or others, they must follow procedures based on this legislation. The process that must be followed for making an application to have an individual assessed if they present in a setting like A and E is outlined on pages 36–38 of the document ['Guidelines on the use of The Mental Health \(Northern Ireland\) Order 1986'](#).

- Mental hospitals are affected by the rules set out in the Order in terms of how they must deal with detained patients. The flow chart on pages 39-40 of the same document sets out the processes that must be adhered to for compulsory admission and detention in hospital for assessment and treatment.

Activity

Choose one health, social care or early years setting and identify two of the above pieces of legislation that impact on it. Review the two pieces of legislation chosen and suggest what the setting has to do to adhere to them. It may be useful to interview the manager of a care setting about this.

