

Unit Title

LA52 Health and Community Care Legal Advice and Casework

Summary

This Unit is designed for you if you specialise in the provision of legal advice in relation to a broad range of health and community care issues. This includes advising clients on more complex areas of law. You will also know how to prepare and present cases in formal or informal hearings.

This is a new Knowledge Unit that has been developed for the independent Legal Advice sector. This Knowledge Unit supports the generic National Occupational Standards for Legal Advice.



To meet the National Standard, you must be able to:

- a) Interpret and explain the legislation, case law and guidance relating to the provision of health and community care and how they apply to specific client situations
- b) Describe the legislative factors relating to the provision of health and social care and the authority each has over local policy for different client groups
- c) Describe and explain relevant local policy and procedures relating to health and social care provision
- d) Explain the rules and procedures relating to appropriate courts and tribunals, including relevant time limits
- e) Describe the range of options for pursuing complaints and seeking redress
- f) Describe the range of funding options within health and social care, including the detail of the welfare benefits system

Knowledge and Understanding

You must show that you know and understand:

1. The legislation, case law and national guidelines relating to:
 - Mental health
 - Children
 - Carers' rights to assessment and services
 - Disability and discrimination
 - Freedom of information and data protection relating to medical records and patient confidentiality and local authority/social services files
 - Clinical negligence, including relevant time limits
 - Self-funding residents and unfair contracts
 - The entitlement to provision within the NHS and local authority social services relative to different nationalities
 - Human rights and the European Convention on Human Rights (ECHR)
2. Public law and case law relevant to the field, including human rights arguments, and how to analyse and evaluate this in the preparation of cases
3. The legislation, regulations, directions, guidance, case law and Ombudsman's decisions relating to the provision of health and social care, and the authority that each has over local policy for different client groups
4. The relevant detail of local policy and procedures relating to:
 - Carers' rights to assessment and services
 - Local mental health provision
 - Local provision for clients with disabilities
 - Choice of accommodation (local authority)
 - Assessment rights relating to hospital discharge
5. The rules and procedures relating to different courts, including relevant time limits
6. The detail of the appropriate range of options for pursuing complaints and seeking redress, including:
 - The role of relevant professional and regulatory bodies in dealing with misconduct
 - The procedures and forms for national and local complaints processes, including relevant time limits
 - The detailed differences in process and application between the Ombudsman and judicial review
 - The grounds and procedures for going to the Ombudsman
 - The grounds and procedures for judicial review

7. Funding options related to the provision of health and social care, including:
- Funding related to the provision of care
 - Detailed knowledge of the welfare benefits system, including eligibility rules and how to access relevant benefits
 - Funding related to choice of accommodation, including the rules concerning the treatment of property in the means test for eligibility for care-home funding and other related rules
 - Third-party payments
 - The rules relating to self-funding and the transition to publicly funded provision from the NHS or local authority